CODE

OF THE

CITY OF MAIZE

KANSAS

Published Under the Authority and by the Direction of

The Governing Body of the City of Maize,

Kansas, this 1st day of August, 2003

09/2018 UPDATE

A Codification of the General Ordinances

of the City of Maize, Kansas

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ROSTER OF CITY OFFICIALS

CITY OF MAIZE

GOVERNING BODY

Mayor

Donna Clasen

Councilmembers

Alex McCreath
Karen Fitzmier
Jennifer Herington
Kevin Reid
Pat Stivers

Administrative Officials

Jocelyn Reid
City Clerk

Richard LaMunyon
City Administrator

Tom Powell
City Attorney

Kent Collins
Municipal Judge

Sue Villarreal
City Treasurer

Matt Jensby
Chief of Police

PREFACE

This volume contains the Code of the City of Maize, Kansas, 2003. As expressed in the adopting ordinance, the code supercedes all ordinances passed prior to August 1, 2003 which are not included herein or recognized as continuing in force by reference thereto. The code was prepared by the staff of the League of Kansas Municipalities and Maize city officials under the authority of Sections 12-3014:3015 of the Kansas Statutes Annotated.

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

Any section of this code may be amended or repealed by ordinary ordinance by reference to the code section number as follows:

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

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

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

All sections or articles or chapters to be repealed shall be repealed by specific reference as follows:

"Section 1-105 (or article or chapter) of the Code of the City of Maize is hereby repealed."

The user's attention is directed to the **Governing Body Handbook**, published by the League of Kansas Municipalities, both as a source of general information and as an index to the pertinent sections of the Kansas Statutes Annotated.

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

PREPARED AND PUBLISHED BY
THE LEAGUE OF KANSAS MUNICIPALITIES

Sandra Jacquot
Legal Counsel

Larry R. Baer
Assistant Legal Counsel

ORDINANCE NO. 535

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

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

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

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

Passed and Approved by the Governing Body this 23rd day of November, 1999.

/s/ Karen Fitzmier, Mayor

ATTEST: /s/ Angela Herrman, City Clerk

(SEAL)

ORDINANCE NO. 619

AN ORDINANCE ADOPTING THE CODIFICATION OF ORDINANCES OF THE CITY OF MAIZE, KANSAS, AUTHORIZED BY ORDINANCE NO. 535 PROVIDING FOR THE REPEAL OF CERTAIN OTHER ORDINANCES NOT INCLUDED THEREIN, EXCEPTING CERTAIN ORDINANCES FROM REPEAL AND SAVING CERTAIN ACCRUED RIGHTS AND LIABILITIES.

Be it Ordained by the Governing Body of the City of Maize, Kansas:

Section 1. The codification of ordinances of the City of Maize, Kansas, authorized by Ordinance No. 535 and K.S.A. 12-3014 and 12-3015, as set out in the following chapters, Chapters I to XVI and Appendices A and B, all inclusive, and entitled the "Code of the City of Maize, Kansas, 2003," is hereby adopted and ordained as the "Code of the City of Maize, Kansas, 2003," and said codification shall become effective upon publication of no fewer than 10 copies of said code in book form.

Section 2. All ordinances and parts of ordinances of a general nature passed prior to December 31, 2002, in force and effect at the date of the publication of no fewer than 10 copies of the "Code of the City of Maize, Kansas, 2003," and this ordinance except Ordinance Nos. 590 and 579 are hereby repealed as of the date of publication of said code except as hereinafter provided.

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

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

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

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

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

Section 6. If for any reason any chapter, article, section, subsection, sentence, portion or part of the "Code of the City of Maize, Kansas, 2003," or the application thereof to any person or circumstances is declared to be unconstitutional or invalid, such decision will not affect the validity of the remaining portions of this code.

Section 7. This ordinance shall take effect and be in force from and after the publication of the "Code of the City of Maize, Kansas, 2003," as provided in K.S.A. 12-3015.

Passed by the Governing Body of the City of Maize, Kansas, this 28th day of July, 2003.

/s/ Clair Donnelly, Mayor

ATTEST: /s/ Jean Silvestri, City Clerk

(SEAL)

CERTIFICATE OF THE CITY CLERK

Office of the City Clerk
City of Maize, Kansas

State of Kansas)
)
Sedgwick County)

I, Jean, Silvestri, City Clerk of the City of Maize, Sedgwick County, Kansas do hereby certify that said city is a city of the third class of the mayor-council form of government under the statutes of Kansas; that this codification of the general ordinances of said city and the publication thereof in book form were ordered and authorized by the governing body by Ordinance No. 535 and in accordance therewith is entitled the "Code of the City of Maize, Kansas, 2003," that said codification was adopted as the "Code of the City of Maize, Kansas, 2003," by the governing body by Ordinance No. 619 passed on the 28th day of July, 2003, as authorized by Section 12-3015 of the Kansas Statutes Annotated; that said Ordinance No. 619 and said codification of general ordinances as contained in this volume will take effect upon publication of 10 or more copies; that the publication of 10 copies of this code and adoptive Ordinance No. 619 constitute due passage of this code and all general ordinances contained therein; that the codification and adoptive Ordinance No. 619 as contained herein are true and correct copies; and that said publication imports absolute verity and is to be received in evidence in all courts and places without further proof as provided by 12- 3015 of the Kansas Statutes Annotated.

I further certify that the "Code of the City of Maize, Kansas, 2003," and the matter therein contained will take effect upon publication and be in force from and after August 1, 2003.

Witness my hand and the seal of the City of Maize, Kansas, at my office in Maize, Kansas, this 21st day of August, 2003.

/s/ Jean Silvestri, City Clerk
City of Maize, Kansas

(S E A L)

MAIZE
COMPARATIVE TABLE OF ORDINANCES

This table shows the location within this code of all ordinances of a general nature passed December 20, 2010, and from July 24, 2017 through November 13, 2017.

Ordinance Number	Ordinance Passed Date	Ordinance Effective Date	Codified Ordinance Section
821	December 20, 2010	December 23, 2010	11-401, 11-402, 11-403, 11-404, 11-405, 11-406, 11-407, 11-408, 11-409, 11-410, 11-411, 11-412
935	July 24, 2017	August 3, 2017	14-106
936	August 21, 2017	August 24, 2017	14-101, 14-102, 14-106
937	August 21, 2017	August 24, 2017	11-101, 11-102
939	November 13, 2017	November 23, 2017	7-201
940		January 4, 2018	2-101, 2-201, 2-202, 2-203, 2-204, 2-205, 2-301, 2-302, 2-303, 2-304, 2-305, 2-306, 2-307, 2-308, 2-309, 2-310, 2-311, 2-312, 2-313, 2-314, 2-315, 2-316, 2-317, 2-318, 2-319, 2-320, 2-321, 2-322, 2-401, 2-402, 2-403, 2-404, 2-405, 2-406, 2-702, 2-703, 2-705
944	May 30, 2018	June 7, 2018	7-201(d)
945	June 18, 2018	June 28, 2018	2-501, 2-502, 2-503, 2-504, 2-505, 2-506, 2-507, 2-508
946	August 20, 2018	August 23, 2018	14-101, 14-102
947	August 20, 2018	August 23, 2018	11-101, 11-102

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CHAPTER I. ADMINISTRATION

ARTICLE 1. GENERAL PROVISIONS

1-101. CODE DESIGNATED. The chapters, articles and sections herein shall constitute and be designated as "The Code of the City of Maize, Kansas," and may be so cited. The Code may also be cited as the "Maize City Code." (Code 2003)

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

(a) City shall mean the City of Maize, Kansas.

(b) Code shall mean "The Code of the City of Maize, Kansas."

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

(d) County means the County of Sedgwick in the State of Kansas.

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

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

(g) Governing Body shall be construed to mean the mayor and city council of the city, or those persons appointed to fill a vacancy in the office of mayor or the council as provided in this code.

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

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

(j) Month shall mean a calendar month.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(z) Year means a calendar year, except where otherwise provided.
(Code 2003)

1-103. EXISTING ORDINANCES. The provisions appearing in this code, so far as they are in substance the same as those of ordinances existing at the time of the effective date of this code, shall be considered as continuations thereof and not as new enactments. (Code 2003)

1-104. EFFECT OF REPEAL. The repeal of an ordinance shall not revive an ordinance previously repealed, nor shall such repeal affect any right which has accrued, any duty imposed, any penalty incurred or any proceeding commenced under or by virtue of the ordinance repealed, except as shall be expressly stated therein. (Code 2003)

1-105. CATCHLINES OF SECTIONS. The catchlines of the sections of this code printed in capital letters are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor

as any part of any section, nor unless expressly so provided shall they be so deemed when any section, including its catchline, is amended or reenacted. (Code 2003)

1-106. PARENTHETICAL AND REFERENCE MATTER. The matter in parenthesis at the ends of sections is for information only and is not a part of the code. Citations indicate only the source and the text may or may not be changed by this code. This code is a new enactment under the provisions of K.S.A. 12-3014 and 12-3015. Reference matter not in parenthesis is for information only and is not a part of this code. (Code 2003)

1-107. AMENDMENTS; REPEAL. Any portion of this code may be amended by specific reference to the section number as follows: "Section _____ of the code of the City of Maize is hereby amended to read as follows: (the new provisions shall then be set out in full). . ." A new section not heretofore existing in the code may be added as follows: "The code of the City of Maize is hereby amended by adding a section (or article or chapter) which reads as follows: . . .(the new provisions shall be set out in full). . ." All sections, or articles, or chapters to be repealed shall be repealed by specific reference as follows: "Section (or article or chapter) _____ of the code of the City of Maize is hereby repealed." (Code 2003)

1-108. ORDINANCES. The governing body shall have the care, management and control of the city and its finances, and shall pass all ordinances needed for the welfare of the city. All ordinances shall be valid when a majority of all the members-elect of the city council shall vote in favor. Where the number of favorable votes is one less than required, the mayor shall have power to cast the deciding vote in favor of the ordinance. (K.S.A. 12-3002; Code 2003)

1-109. SAME; SUBJECT AND TITLE; AMENDMENT. No ordinance shall contain more than one subject, which shall be clearly expressed in its title; and no section or sections of an ordinance shall be amended unless the amending ordinance contains the entire section or sections as amended and the section or sections amended shall be repealed. (K.S.A. 12-3004; Code 2003)

1-110. SAME; PUBLICATION. No ordinance, except those appropriating money, shall be in force until published in the official city newspaper by the city clerk. One publication of any such ordinance shall be sufficient unless additional publications are required by statute or ordinance. The publisher of the newspaper shall prefix such published ordinance by a line in brackets stating the month, day and year of such publication. (K.S.A. 12-3007; Code 2003)

1-111. SAME; ORDINANCE BOOK. Following final passage and approval of each ordinance, the city clerk shall enter the same in the ordinance book of the city as provided by law. Each ordinance shall have appended thereto the manner in which the ordinance was passed, the date of passage, the page of the journal containing the record of the final vote on its passage, the name of the newspaper in which published and the date of publication. (K.S.A. 12-3008; Code 2003)

1-112. RESOLUTIONS, MOTIONS. Except where a state statute or city ordinance specifically requires otherwise, all resolutions and motions shall be passed if voted upon favorably by a majority of a quorum of the city council. (Code 2003)

1-113. CITY RECORDS. The city clerk or any other officer or employee having custody of city records and documents shall maintain such records and documents in accordance with K.S.A. 12-120 to 12-121 inclusive, which is incorporated by reference herein as if set out in full and as provided in the state open records act and the city policy regarding open public records. (K.S.A. 12-120:121; Code 2003)

1-114. ALTERING CODE. It shall be unlawful for any person, firm or corporation to change or amend by additions or deletions, any part or portion of this code, or to insert or delete pages, or portions thereof, or to alter or tamper with such code in any manner whatsoever which will cause the law of the City of Maize to be misrepresented thereby. This restriction shall not apply to amendments or revisions of this code authorized by ordinance duly adopted by the governing body. (Code 2003)

1-115. SCOPE OF APPLICATION. Any person convicted of doing any of the acts or things prohibited, made unlawful, or the failing to do any of the things commanded to be done, as specified and set forth in this code, shall be deemed in violation of this code and punished in accordance with section 1-116. Each day any violation of this code continues shall constitute a separate offense. (Code 2003)

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

(a) A fine of not more than $1,000; or,
(b) Imprisonment in jail for not more than 179 days; or,
(c) Both such fine and imprisonment not to exceed (a) and (b) above.

(Code 2003)

1-117. SEVERABILITY. If for any reason any chapter, article, section, subsection, sentence, clause or phrase of this code or the application thereof to any person or circumstance, is declared to be unconstitutional or invalid or unenforceable, such decision shall not affect the validity of the remaining portions of this code. (Code 2003)

ARTICLE 2. GOVERNING BODY

1-201. GOVERNING BODY. The governing body shall consist of a mayor and council to be elected as set out in Chapter 6 of this code. (Code 2003)

1-202. SAME; POWERS GENERALLY. All powers exercised by cities of the third class or which shall hereafter be conferred upon them shall be exercised by the governing body, subject to such limitations as prescribed by law. All executive and administrative authority granted or limited by law shall be vested in the mayor and council as governing body of the city. (K.S.A. 12-103; Code 2003)

1-203. SAME; MEETINGS. (a) Regular meetings of the governing body shall be held on the third Monday of each month at 7:00 p.m. In the event the regular meeting day shall fall on any legal holiday or any day observed as a holiday by the city offices, the governing body shall fix the succeeding day not observed as a holiday as a 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 such meeting, which request shall be read at a meeting and entered at length on the journal.

(c) Regular or special meetings of the governing body may be adjourned for the completion of its business at such subsequent time and place as the governing body shall determine in its motion to adjourn.
(Ord. 790)

1-204. SAME; QUORUM. In all cases, it shall require four members of the council-elect to constitute a quorum to do business. (K.S.A. 15-106; C.O. No. 15-96; Code 2003)

1-205. POWERS OF THE MAYOR. The mayor shall preside at all meetings of the governing body. The mayor shall have the tie-breaking vote on all questions when the members present are equally divided. The mayor shall:

(a) Have the superintending control of all officers and affairs of the city;

(b) Take care that the ordinances of the city are complied with;

(c) Sign the commissions and appointments of all officers elected or appointed;

(d) Endorse the approval of the governing body on all official bonds;

(e) From time to time communicate to the city administrator such information and recommend such measures as he or she may deem advisable;

(f) Have the power to approve or veto any ordinance as the laws of the state shall prescribe;

(g) Sign all orders and drafts drawn upon the city treasury for money.
(K.S.A. 15-301:311; Code 2003)

1-206. PRESIDENT OF THE COUNCIL. The city council shall elect one of its own body as president of the council. The president of the council shall preside at all meetings of the council in the absence of the mayor. In the absence of both the mayor and the president of the council, the council shall elect one of its members as "acting president of the council." The president and acting president, when occupying the place of mayor, shall have the same privileges as other council members but shall exercise no veto. (K.S.A. 15-310; Code 2003)

1-207. ADMINISTRATIVE POWERS. The governing body may designate whether the administration of a policy or the carrying out of any order shall be performed by a committee, an appointive officer, or the mayor. If no administrative authority is designated it shall be vested in the mayor. (Code 2003)

1-208. VACANCIES IN GOVERNING BODY; HOW FILLED. In case of a vacancy in the office of councilmen occurring by reason of resignation, death or removal from office, or from the city, the mayor, by and with the consent of the majority of the remaining councilmen, shall appoint some suitable elector of the city to fill the

vacancy until the next election for that office. In case of a vacancy in the office of mayor occurring by reason of resignation, death, removal from office or from the city, the president of the council shall become mayor until the next regular election for that office and a vacancy shall occur in the office of the councilman becoming mayor. (C.O. No. 2; Code 2003)

1-209. GOVERNING BODY COMPENSATION. Compensation for performance of duties by the Mayor and City Council members will be set and adjusted from time to time by a majority vote of the City Council. (Ord. 908)

1-210. EXPENSES. Each member of the governing body shall receive for services and as reimbursement for expenses, compensation as follows:

(a) Mileage at the same rate as is established by law by the IRS for each mile traveled by the shortest route upon the performance of duties assigned by the mayor and/or council.

(b) Reimbursement for actual food and lodging expenses upon the performance of duties assigned by the mayor and/or council provided such expenses shall be documented by proper receipts.
(Code 2003)

1-211. RULES AND ORDER OF BUSINESS. The following shall constitute guidelines for the rules and order of business of the city.

Rule 1. Adjourned Meetings. Adjourned meetings of the governing body may be held at such time and place as the governing body may determine in the motion to adjourn.

Rule 2. Special Meetings. Special meetings may be held at any time upon a call signed by a majority of the governing body.

The call of a special meeting shall be in substantially the following form:

CALL FOR SPECIAL GOVERNING BODY MEETING
Maize, Kansas
_____, 20___

To the Members of the Governing Body

A special meeting of the governing body is hereby called to be held at the community building, _____, 20____ at _____o'clock ___m., the object of said meeting being to _____ (state object)

Signed:
_____
_____
_____

A notice of such special meeting, stating the time, place, and object of the meeting, directed to the council shall be issued by the city clerk to the chief of police, deputy, or a law enforcement officer or other city employee, who shall be required to make service of said notice at once personally upon each councilmember or to leave it at the usual place of residence, and such notice must

be served or left at the usual place of residence at least two hours before the time of meeting. The person serving the notice shall make a return in writing of the service, showing the manner of such service. Attendance at a special meeting by any member of the governing body shall constitute a waiver of the right to notice under this rule for that member. The notice and the return shall be in substantially the following form:

NOTICE OF SPECIAL GOVERNING BODY MEETING

Office of the City Clerk
Maize, Kansas

To_____
_____

You are hereby notified that there will be a special meeting of the Governing Body at _____o'clock ____m., _____, 20___, at the city hall for the object of (state the same object as shown in the call).

Witness my hand and the seal of said city this _____ day of _____, 20_____.

State of Kansas _____
City Clerk

County of Sedgwick ss.

City of Maize

To (chief of police, deputy, or a law enforcement officer or other city employee).

Greeting:

You are hereby directed to serve the above notice at once personally upon _____ _____ or to leave it at his or her usual place of residence before _____ o'clock _____m., _____ 20____, and to make a return in writing of said service, showing the manner of such service.

(SEAL) _____
City Clerk

RETURN

Received the original notice of special governing body meeting, of which the foregoing is a copy, at _____ o'clock _____m., on the _____ day of _____, 20____, and (served the same personally on _____ _____ or left said original notice at the usual place of residence of _____ _____) at _____ o'clock _____m., on the _____ day of _____, 20____.

Dated this _____ day of _____, 20____

Signed:

_____
Person serving notice

Rule 3. Order of Business. At the hour appointed for meeting, the governing body shall be called together by the mayor and, in his or her absence, by the acting mayor. The city clerk shall call the roll and note the absentees and announce whether a quorum be present. Upon the appearance of a quorum the governing body shall proceed to business.

Rule 4. Order. The mayor shall preserve order and decorum and shall decide questions of order subject to an appeal to the council.

Rule 5. Decorum. Every member previous to his or her speaking shall address himself or herself to the chair and shall not proceed until recognized by the chair. He or she shall indulge in no personalities and confine his or her remarks to the matter under debate.

Rule 6. Point of Order. A member called to order shall immediately suspend until the point of order raised is decided by the chair.

Rule 7. Certain Motions in Writing. Every motion except to adjourn, postpone, reconsider, commit, lay on the table, or for the previous question, shall be reduced to writing if the chair or any member requires it; when made and seconded, it shall be stated by the chairperson or being written shall be read by the clerk, and may be withdrawn before decision or amendment, or any disposition thereof has been made, or a vote thereon had.

Rule 8. Resolutions. All resolutions must be in writing.

Rule 9. Motions During Debate. When a question is under debate no motion shall be entertained except:

(1) To adjourn;
(2) To lay on the table;
(3) To take the previous question;
(4) To postpone;
(5) To amend;

which several motions shall have precedence in the order in which they are named, and the first three shall be decided without debate.

Rule 10. Division. Any member may call for a division of a question when the same will admit thereof.

Rule 11. Voting; Abstaining From Voting. When a question is put by the chair, every member present shall vote unless for special reasons the chair shall excuse him or her. For those questions for which an abstention is permitted, such a vote shall be counted as a vote cast in favor of the position taken by the majority of those persons present and voting. In doubtful cases the chair may direct, or any member may call for, a division. The yeas and nays shall be called upon a requisition of the chair or any member, and upon the final passage of all ordinances in which case the names of the members voting and their votes shall be recorded in the minutes.

Rule 12. Precedence of Questions. All questions shall be put in the order in which they are moved, except in case of privilege questions, and in filling blanks the longest time and the largest sum shall be first.

Rule 13. Previous Question. The previous question shall be put in these words: "Shall the main question now be put?" It shall be admitted on demand of any member and until decided shall preclude all amendments and debate of the main question.

Rule 14. Passing of Ordinances. All ordinances shall be read by sections, at which time amendments, if any, may be offered, but the reading of any section shall not preclude the offering of an amendment to any preceding one. If amendments are made the chair shall so report, and each section shall be read as amended before the vote on the passage of the ordinance is taken. After reading and amendment (if any) of the ordinance, the question shall be: "Shall the ordinance pass?" The vote on the final passage of an ordinance shall be taken by yeas and nays, which shall be entered on the journal by the clerk; and no ordinance shall be valid unless a majority of (or otherwise as required by law) the members of the council vote in favor thereof: Provided, That no ordinance shall contain more than one subject, which shall be clearly expressed in its title, and no section or sections of an ordinance shall be amended unless the amending ordinance contains the entire section or sections as amended and the section or sections amended shall be repealed. (K.S.A. 12-3002, 12-3004)

Rule 15. Signing and Engrossing Ordinances. After an ordinance shall have passed it shall be correctly entered in the original ordinance book and the original and the book copy shall be signed by the mayor, or in the absence of the mayor by the acting mayor, and attested by the clerk, who shall secure publication of the ordinance as required by law.

Rule 16. Clerk Reads Communications. Petitions and other papers addressed to the governing body shall be read by the clerk under proper order of business upon presentation of the same to the board.

Rule 17. Robert's Rules of Order. In all points not covered by these rules the governing body shall be governed in its procedure by Robert's Rules of Order. (Code 2003)

1-212. CODE OF ETHICS. (a) Declaration of Policy - The proper operation of our government requires that public officials and employees be independent, impartial and responsible to the people; that governmental decisions and policy be made in the proper channels and that the public have confidence in the integrity of its government. In recognition of those goals, there is hereby established a Code of Ethics for all officials and employees, whether elected or appointed, paid or unpaid. The purpose of this code is to establish ethical standards by setting forth those acts or actions that are incompatible with the best interests of the city.

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

(c) Dedicated Service - All officials and employees of the city should be responsive to the political objectives expressed by the electorate and the programs developed to attain those objectives. Appointive officials and employees should adhere to the rule of work and performance established as the standard for their positions by the appropriate authority.

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

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

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

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

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

Specific conflicts of interest are enumerated below for the guidance of officials and employees:

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

(2) Disclosure of Confidential Information - No elected or appointive city official or employee, shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the city. Nor shall he or she use such information to advance the financial or other private interest of himself, herself or others.

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

(4) Representing Private Interest Before City Agencies or Courts - No elected or appointive city official or employee whose salary is paid in whole or in part by the city shall appear in behalf of private interest before any agency of this city. He or she shall not represent private interests in any action or proceeding against the interest of the city in any litigation to which the city is a party.
(Code 2003)

ARTICLE 3. OFFICERS AND EMPLOYEES

1-301. APPOINTMENT. The city council shall develop and implement policies and procedures for employing, evaluating, and retaining or not retaining in employment all non-elected personnel, including those enumerated in K.S.A. 15-204. (C.O. No. 17-98, Sec. 2; Code 2003)

1-302. EMPLOYEES. The city administrator shall have authority to hire all other employees, or such authority may be delegated to the respective department heads. (Code 2003)

1-303. REMOVAL. (a) A majority of all members elect of the governing body may remove any appointed officer.

(b) For good cause, the mayor may suspend at any time any appointed officer.

(c) Employees, other than appointed officers, may be removed by the mayor upon recommendation of the respective department heads.

(d) No officer or employee shall be removed for any reason until he or she has been given notice and afforded the opportunity for a hearing.
(K.S.A. 15-204; Code 2003)

1-304. VACANCY IN OFFICE. Whenever a vacancy occurs in any appointive office for whatever reason, the vacancy shall be filled by the governing body. Any person appointed to fill such vacancy shall serve only until the next regular time for appointment. (K.S.A. 15-201; Code 2003)

1-305. CITY ADMINISTRATOR. There is hereby created and established the office of city administrator. The city administrator shall be an at-will employee. The city administrator shall be responsible for carrying out the duties and obligation of city administrator as set forth in city ordinances, policies and regulations and in the city administrator's employment agreement. (Ord. 736, Sec. 1)

1-306. REPEALED. (Ord. 736, Sec. 2)

1-307. CITY CLERK. The city clerk shall:

(a) Be custodian of all city records, books, files, papers, documents and other personal effects belonging to the city and not properly pertaining to any other office;

(b) Carry on all official correspondence of the city;

(c) Attend and keep a record of the proceedings of all regular and special meetings of the governing body;

(d) Enter every appointment of office and the date thereof in the journal;

(e) Enter or place each ordinance of the city in the ordinance books after its passage;

(f) Publish all ordinances, except those appropriating money, and such resolutions, notices and proclamations as may be required by law or ordinance. (Code 2003)

1-308. SAME; FISCAL RECORDS. The city clerk shall:

(a) Prepare and keep suitable fiscal records according to generally accepted accounting principles;

(b) Assist in preparing the annual budget;

(c) Audit all claims against the city for goods or services rendered for the consideration of the governing body. His or her accounts shall properly show the amounts paid from any fund of the city and the cash balance existing in each fund;

(d) Keep an accurate account of all bonds issued by the city;

(e) Keep a record of all special assessments. (Code 2003)

1-309. SAME; SEAL; OATHS. The city clerk shall:

(a) Have custody of the corporate seal of the city and shall affix the same to the official copy of all ordinances, contracts, and other documents required to be authenticated;

(b) Have power to administer oaths for all purposes pertaining to the business and affairs of the city;

(c) Keep suitable files of all such oaths required to be deposited in his or her office. (Code 2003)

1-310. SAME; WITHHOLDING AGENTS. The city clerk is designated as the withholding agent of the city for the purposes of the Federal Revenue (Income) Act, and shall perform the duties required of withholding agents by said act or any

other act requiring withholding from the compensation of any city officer or employee. The clerk shall perform such other duties as may be prescribed by the governing body or the Kansas statutes. (Code 2003)

1-311. ASSISTANT CITY CLERK. (a) The office of assistant city clerk is hereby established. The mayor shall appoint, by and with the consent of the city council, the assistant city clerk. The person so appointed and confirmed shall hold the office for a term of one year and until a successor is appointed and confirmed.

(b) The assistant city clerk shall perform those duties assigned to that office by the city clerk.

(c) Whenever a vacancy occurs in the position of city clerk and the city is without a person appointed, confirmed or qualified to hold that office, the assistant city clerk shall become the acting city clerk and fulfill the duties of that office.

(d) Compensation of the assistant city clerk shall be set by ordinance passed by the governing body.
(Code 2003)

1-312. CITY TREASURER. The city treasurer shall:

(a) Keep a full and accurate record of all money received and paid out in a ledger book provided by the governing body;

(b) Publish an annual financial statement;

(c) Deposit all public moneys and sign all checks of the city;

(d) Pay out city funds only upon orders or warrants properly signed by the mayor and city clerk;

(e) Perform such other duties as may be prescribed by the governing body or the Kansas statutes.
(K.S.A. 10-803; K.S.A. 12-1608; Code 2003)

1-313. CITY ATTORNEY; OFFICE; DUTIES. There is hereby established the office of city attorney. No person shall be eligible for the office of city attorney who is not an attorney at law admitted to practice in the Supreme Court of the State of Kansas. The city attorney shall be charged with the general direction and supervision of the legal affairs of the city. The city attorney shall:

(a) Attend meetings of the city council when so directed to attend by the council;

(b) Advise the city council and all officers of the city upon such legal questions affecting the city and its offices as may be submitted to him or her;

(c) When requested by the city council, give opinions in writing upon any such questions;

(d) Draft such ordinances, contracts, leases, easements, conveyances and other instruments in writing as may be submitted to him or her in the regular transaction of affairs of the city;

(e) Approve all ordinances of the city as to form and legality;

(f) Attend planning commission and board of zoning appeals meetings when so directed by the boards;

(g) Appear and prosecute all violations of city ordinances in municipal court when his or her services shall be required;

(h) Perform such other duties as may be prescribed by the governing body and the Kansas statutes.
(Code 2003)

1-314. CITY PROSECUTOR; OFFICE; DUTIES. (a) There is hereby established the office of city prosecutor. No person shall be eligible for the office of city prosecutor who is not an attorney at law admitted to practice law in the State of Kansas. The city prosecutor shall:

(1) Attend meetings of the governing body when so directed to attend by the mayor or city attorney;

(2) Advise the city council and all offices of the city upon legal questions affecting the city and its officers as may be submitted to him or her;

(3) Draft such ordinances and other instruments in writing as may be submitted to him or her in the regular transactions of the affairs of the city;

(4) Appear and prosecute all violations of city ordinances in municipal court;

(5) Perform such other duties as may be prescribed by the governing body and the Kansas statutes.

(b) The governing body may appoint a city prosecutor in accordance with section 1-301. In the event that there is no city prosecutor, the city attorney shall serve in such capacity.
(Code 2003)

1-315. CITY ENGINEER. The city engineer shall be a licensed professional engineer in the State of Kansas. He or she shall be responsible for:

(a) The design and specifications for all city streets, sewers, water lines, public buildings and other public facilities;

(b) The inspection of all public works projects including streets, sewers, water lines and other public facilities;

(c) The general supervision of the maintenance and repair of all public facilities.
(Code 2003)

1-316. APPOINTMENT OR EMPLOYMENT IN MORE THAN ONE POSITION. The same person may be appointed to more than one appointive office, or employed in more than one department, except that the same person shall not be appointed to incompatible offices. Salaries or wages of such persons shall be prorated between the proper funds of the several offices or departments. (Code 2003)

1-317. CONFLICT OF INTEREST. (a) No city officer or employee shall be signatory upon, discuss in an official capacity, vote on any issue concerning or otherwise participate in his or her capacity as a public official or employee in the making of any contract with any person or business:

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

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

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

(b) The prohibitions contained in subsection (a) of this section shall not apply to the following:

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

(2) Contracts for property or services for which the price or rate is fixed by law.

(K.S.A. 75-4301; Code 2003)

ARTICLE 4. PERSONNEL POLICY AND EMPLOYEE BENEFITS

1-401. PERSONNEL POLICIES AND GUIDELINES. There is hereby incorporated by reference for the purpose of establishing employee personnel rules and regulations the document entitled "Uniform Personnel Policies and Guidelines for the City of Maize." No fewer than three copies of said document shall be marked or stamped "Official Copy as adopted by the Code of the City of Maize" and which there shall be attached a copy of this section. Said official copies shall be filed with the city clerk and shall be open to inspection and available to the public at all reasonable hours. All departments of the city shall be supplied with copies of such rules and regulations as may be deemed necessary. (Ord. 438, Sec. 2; Code 2003)

1-402. KANSAS PUBLIC EMPLOYEES DEFERRED COMPENSATION PLAN. The city hereby elects to join and participate in the Public Employees Deferred Compensation Plan, as authorized by K.S.A. 75-5529A and 75-5529b. (Ord. 505, Sec. 1)

ARTICLE 5. OATHS AND BONDS

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

"I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States and the Constitution of the State of Kansas and faithfully discharge the duties of _____ (here enter name of office or position). So help me God." (K.S.A. 75-4308; Code 2003)

1-502. OATHS FILED. All officers and employees required to take and subscribe or sign an oath or affirmation shall be supplied the forms for the purpose at the expense of the city and upon taking and subscribing or signing any such oath or affirmation, the same shall be filed by the city clerk. (Code 2003)

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

(1) City treasurer - $10,000;

(2) City clerk - $10,000;

(3) Clerk of municipal court - $1,000;
(4) Judge of municipal court - $1,000.

(b) The governing body may provide for the coverage by blanket bond of such officers and employees and in such amounts as the governing body may, by resolution, designate. (Code 2003)

1-504. SAME; PREMIUMS. All premiums on surety bonds shall be paid by the city. (K.S.A. 78-111; Code 2003)

1-505. CONDITION OF BONDS. Each of the bonds required in section 1-503 of this article shall be conditioned for the faithful performance of duty and all acts required by the laws of Kansas and of the city, and for the application and payment over to the proper persons of all moneys or property coming into the hands of each such officer by virtue of his or her office. (Code 2003)

1-506. APPROVAL OF BONDS. All bonds given to the city shall be approved as to their form by the city attorney and as to surety and sufficiency by the governing body, unless otherwise provided by the laws of the State of Kansas. (Code 2003)

ARTICLE 6. OPEN RECORDS

1-601. POLICY. (a) It is hereby declared to be the policy of the city that all public records which are made, maintained or kept by or are in the possession of the city, its officers and employees, shall be open for public inspection as provided by, and subject to the restrictions imposed by, the Kansas Open Records Act.

(b) Any person, upon request, shall have access to such open public records for the purpose of inspecting, abstracting or copying such records while they are in the possession, custody and control of the appointed or designated record custodian thereof, or his or her designated representative.
(Code 2003)

1-602. RECORD CUSTODIANS. (a) All city officers and employees appointed or designated as record custodians under this article shall: protect public records from damage and disorganization; prevent excessive disruption of the essential functions of the city; provide assistance and information upon request; insure efficient and timely action and response to all applications for inspection of public records; and shall carry out the procedures adopted by this city for inspecting and copying open public records.

(b) The official custodian shall prominently display or distribute or otherwise make available to the public a brochure in the form prescribed by the Local Freedom of Information Officer that contains basic information about the rights of a requester, the responsibilities of a public agency, and the procedures for inspecting or obtaining a copy of public records under the Kansas Open Records Act. The official custodian shall display or distribute or otherwise make available to the public the brochure at one or more places in the administrative offices of the city where it is available to members of the public who request public information in person.
(Code 2003)

1-603. LOCAL FREEDOM OF INFORMATION OFFICERS. The Local Freedom of Information Officer shall:

(a) Prepare and provide educational materials and information concerning the Kansas Open Records Act;

(b) be available to assist the city and members of the general public to resolve disputes relating the Kansas Open Records Act;

(c) respond to inquiries relating to the Kansas Open Records Act;

(d) establish the requirements for the content, size, shape and other physical characteristics of a brochure required to be displayed or distributed or otherwise made available to the public under the Kansas Open Records Act. In establishing such requirements for the content of the brochure, the Local Freedom of Information Officer shall include plainly written basic information about the rights of a requester, the responsibilities of the city, and the procedures for inspecting and obtaining a copy of public records under the Act.
(Code 2003)

1-604. PUBLIC REQUEST FOR ACCESS. All city offices keeping and maintaining open public records shall establish office hours during which any person may make a request for access to an open public record. Such hours shall be no fewer than the hours each business day the office is regularly open to the public. For any city office not open Monday through Friday, hours shall be established by the record custodian for each such day at which time any person may request access to an open public record. (Code 2003)

1-605. FACILITIES FOR PUBLIC INSPECTION. All city offices keeping and maintaining open public records shall provide suitable facilities to be used by any person desiring to inspect and/or copy an open public record. The office of the city clerk, being the principal recordkeeper of the city, shall be used as the principal office for providing access to and providing copies of open records to the maximum extent practicable. Requesters of records shall be referred to the office of the city clerk except when the requested records are not in that office and are available in another city office. (Code 2003)

1-606. PROCEDURES FOR INSPECTION. Any person requesting access to an open public record for purposes of inspecting or copying such record, or obtaining a copy thereof, shall abide by the procedures adopted by the governing body for record inspection and copying, including those procedures established by record custodians as authorized by the governing body. Such procedures shall be posted in each city office keeping and maintaining open public records. (Code 2003)

1-607. APPOINTMENT OF OFFICIAL CUSTODIANS. The following city officers are hereby appointed as official custodians for purposes of the Kansas Open Records Act and are hereby charged with responsibility for compliance with that Act with respect to the hereinafter listed public records:

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

(b) City Treasurer - All public records not on file in the office of the city clerk and kept and maintained in the city treasurer's office.

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

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

(e) Clerk of the Municipal Court - All public records not on file in the office of the city clerk and kept and maintained in the municipal court.
(Code 2003)

1-608. APPOINTMENT OF LOCAL FREEDOM OF INFORMATION OFFICER. The city administrator is hereby appointed as the local freedom of information officer and charged with all of the duties as set forth in section 1-603. (Code 2003)

1-609. DESIGNATION OF ADDITIONAL RECORD CUSTODIANS. (a) Each of the official custodians appointed in section 1-606 is hereby authorized to designate any subordinate officers or employees to serve as record custodian. Such record custodians shall have such duties and powers as are set out in the Kansas Open Records Act.

(b) Whenever an official custodian shall appoint another person as a record custodian he or she shall notify the city clerk of such designation and the city clerk shall maintain a register of all such designations.
(Code 2003)

1-610. REQUESTS TO BE DIRECTED TO CUSTODIANS. (a) All members of the public, in seeking access to, or copies of, a public record in accordance with the provisions of the Kansas Open Records Act, shall address their requests to the custodian charged with responsibility for the maintenance of the record sought to be inspected or copied.

(b) Whenever any city officer or employee appointed or designated as a custodian under this article is presented with a request for access to, or copy of, a public record which record the custodian does not have in his or her possession and for which he or she has not been given responsibility to keep and maintain, the custodian shall so advise the person requesting the record. Further, the person making the request shall be informed as to which custodian the request should be addressed to, if such is known by the custodian receiving the request.
(Code 2003)

1-611. FEE ADMINISTRATION. The city clerk is hereby authorized to provide the clerk's office, and the office of each record custodian, with sufficient cash to enable the making of change for record fee purposes. Each custodian shall transmit all record fee moneys collected to the city treasurer not less than monthly. Each custodian shall maintain duplicates of all records and copy request forms, completed as to the amount of fee charged and collected, which amounts shall be periodically audited by the clerk-finance officer and treasurer of the city. (Code 2003)

1-612. 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 hourly rate of each employee engaged in the record search. A minimum charge of $5 shall be charged for each such request.
(Ord. 349, Code 2003)

1-613. COPYING FEE. (a) A fee of $.25 per page shall be charged for photocopying public records, such fee to cover the cost of labor, materials and equipment.

(b) For copying any public records which cannot be reproduced by the city's photocopying equipment, the requester shall be charged the actual cost to the city, including staff time, in reproducing such records.
(Ord. 349; Code 2003)

1-614. PREPAYMENT OF FEES. (a) A record custodian may demand prepayment of the fees established by this article whenever he or she believes this to be in the best interest of the city. The prepayment amount shall be an estimate of the inspection and/or copying charges accrued in fulfilling the record request. Any overage or underage in the prepayment shall be settled prior to inspection of the requested record or 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 $5.

(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.
(Ord. 349; Code 2003)

1-615. PAYMENT. All fees charged under this article shall be paid to the custodian of the records inspected and/or copied unless the requester has established an account, for purposes of billing and payment, with the city. (Ord. 349; Code 2003)

ARTICLE 7. INVESTMENT OF IDLE FUNDS

1-701. PURPOSE AND GOALS. It is the purpose of this statement to set forth the public policies of the city relating to the investment of public moneys, and establish procedural requirements as to investment management practice. The objective of the investment policy and program of the city shall be as follows:

(a) The safeguarding of all public moneys shall be of the highest priority. Public money shall not be invested or managed in any matter which would jeopardize the safety of the principal.

(b) Consistent with the requirement of safety, the objective of the investment program shall be to aggressively manage and invest all public moneys to maximize net earnings, consistent with the public responsibility to secure maximum, safe investment return possible from moneys assigned to its stewardship, to relieve demands on the property tax and to otherwise reduce the cost of public services.
(Code 2003)

1-702. INVESTMENT OF IDLE FUNDS. Temporarily idle moneys of the city not currently needed, may in accordance with the procedure hereafter described be invested:

(a) In temporary notes or no-fund warrants issued by such investing governmental unit;

(b) In time deposit, open accounts or certificates of deposit with maturities of not more than two years:

(1) In commercial banks which have offices located in such investing governmental unit; or

(2) If the office of no commercial bank is located in such investing governmental unit, then in commercial banks which have offices in the county or counties in which all or part of such investing governmental unit is located;

(c) In time certificates of deposit with maturities of not more than two years:

(1) With state or federally chartered savings and loan associations or federally chartered savings banks which have offices located in such investing governmental unit; or

(2) If the office of no state or federally chartered savings and loan association or federally chartered savings bank is located in such governmental unit, then with state or federally chartered savings and loan associations or federally chartered savings banks which have offices in the county or counties in which all or part of such investing governmental unit is located;

(d) In repurchase agreements with:

(1) Commercial banks, state or federally chartered savings and loan associations or federally chartered savings banks which have offices located in such investing governmental unit, for direct obligations of, or obligations that are insured as to principal and interest by, the United States government or any agency thereof; or

(2) (A) If the office of no commercial bank, state or federally chartered savings and loan association or federally chartered savings bank is located in such investing governmental unit; or

(B) If no commercial bank, state or federally chartered savings and loan association or federally chartered savings bank has an office located in such investing governmental unit is willing to enter into such an agreement with the investing governmental unit at an interest rate equal to or greater than the investment rate, as defined in subsection (l) of K.S.A. 75-4201, and amendments thereto, then such repurchase agreements may be entered into with commercial banks, state or federally chartered savings and loan associations or federally chartered savings banks which have offices in the county or counties in which all or part of such investing governmental unit is located; or

(3) If no bank, state or federally chartered savings and loan association or federally chartered savings bank which has its office in such county or counties is willing to enter into such an agreement with the investing governmental unit at an interest rate equal to or greater than the investment rate, as defined in subsection (l) of K.S.A. 75-4201, and amendments thereto, then such repurchase agreements may be entered into with commercial banks, state or federally chartered savings and loan associations or federally chartered savings banks which have offices in the State of Kansas;

(e) In United States treasury bills or notes with maturities as the governing body shall determine, but not exceeding two years. Such investment transactions shall only be conducted with the following, which is doing business within the State of Kansas, any state or national bank, state or federally chartered savings and loan association, or federally chartered savings bank; or with primary government securities dealers which report to the market report division of the federal reserve bank of New York, or any broker-dealer which is registered in compliance with the

requirements of section 15C of the securities exchange act of 1934 and registered pursuant to K.S.A. 17-1254, and amendments thereto;

(f) The municipal investment pool fund;

(g) The investments authorized and in accordance with the conditions prescribed in section 2 of the municipal investment pool fund act;

(h) The trust departments of commercial banks which have offices located in such investing governmental unit or with trust companies which have contracted to provide trust services under the provisions of K.S.A. 9-2107, and amendments thereto, with commercial banks which have offices located in the county or counties in which such investing governmental unit is located. Public moneys invested under this paragraph shall be secured in the same manner as provided for under K.S.A. 9-1402, and amendments thereto. Investments of public moneys under this paragraph shall be limited to those investments authorized under subsection (b) of section 1 of the municipal investment pool fund act.

(i) The investments authorized in paragraphs (e), (f), (g) or (h) of this section shall be utilized only if the appropriate eligible commercial banks, which have offices located in the investing governmental unit or in the county or counties in which all or a part of such investing governmental unit is located if no such bank has an office which is located within such governmental unit, or the appropriate eligible state or federally chartered savings and loan associations or federally chartered savings banks, which have offices located in the investing governmental unit or in the county or counties in which all or a part of such investing governmental unit is located if no such state or federally chartered savings and loan association or federally chartered savings bank has an office which is located within such governmental unit, cannot or will not make the investments authorized in paragraphs (b) or (c) of this section available to the investing governmental unit at interest rates equal to or greater than the investment rate, as defined in subsection (l) of K.S.A. 75-4201, and amendments thereto.

(K.S.A. 12-1675, as amended; Code 2003)

1-703. PROCEDURES AND RESTRICTIONS. The city clerk shall periodically report to the governing body as to the amount of money available for investment and the period of time such amounts will be available for investment, and shall submit such recommendations as deemed necessary for the efficient and safe management of city finances. The recommendations of the city clerk shall provide for an investment program which shall so limit the amounts invested and shall schedule the maturities of investments so that the city will, at all times, have sufficient moneys available on demand deposit to assure prompt payment of all city obligations. (Code 2003)

1-704. CUSTODY AND SAFEKEEPING. Securities purchased pursuant to this article shall be under the care of the city clerk, city treasurer and mayor and shall be held in the custody of a state or national bank or trust company, or shall be kept by such officers in a safety deposit box of the city in a bank or trust company. Securities in the original or receipt form held in the custody of a bank or trust company shall be held in the name of the city, and their redemption, transfer, or withdrawal shall be permitted only upon the written instruction of the city officers. Securities not held in the custody of a bank or trust company shall be personally deposited by such officer in a safety deposit box in the name of the city in a bank

or trust company, access to which shall be permitted only in the personal presence and under the signature of two of the abovementioned officers. (Code 2003)

1-705. SALE OR TRANSFER. If, in order to maintain sufficient moneys on demand deposit in any fund as provided in section 1-703, it becomes necessary to transfer or sell any securities of such funds, the officers specified in section 1-704 may transfer said securities to any other fund or funds in which there are temporarily idle moneys, or shall sell such securities, and for such purpose they shall have authority to make any necessary written direction, endorsement or assignment for and on behalf of the city. (Code 2003)

1-706. INTEREST ON TIME DEPOSITS. The city clerk shall deposit the interest earned on invested idle funds to each fund, unless otherwise required or authorized by law. (Code 2003)

Ref. See K.S.A. 12-1677, and amendments thereto.

ARTICLE 8. PUBLIC BUILDING COMMISSION

1-801. CREATION. There is hereby created by the Council under the authority of this Act, a municipal corporation to be known as the City of Maize Kansas Public Building Commission (the "PBC"). (Ord. 630)

1-802. COMPOSITION. The City Council members and the Mayor of the City shall serve as the governing body of the PBC. The Mayor shall serve as the President and presiding officer of the PBC. The Mayor shall also be a voting member of the PBC. In addition, where the PBC provides for a building which will house officers or agencies of the state, county, school district or other governmental agencies, the Secretary of State for the State of Kansas or the governing body of the county, school district or other governmental agency who are housed in a building provided by the PBC will appoint one member to the PBC. Such members, or their replacements, shall serve as members of the PBC until their agency is no longer housed by the PBC. (Ord. 644)

1-803. PURPOSE, POWERS AND FUNCTIONS. The PBC is created for the purposes of, and shall have the powers and shall perform the functions set forth in the Act. The Council, by ordinance or charter ordinance hereafter taking effect, shall have the authority to limit or expand the purposes, powers and/or functions of the PBC. (Ord. 630)

1-804. SUPPORT SERVICES. Unless otherwise approved by the Council, the City Administrator of the City shall provide administrative services to the PBC and the City's bond counsel and City Attorney shall provide legal services to the PBC. (Ord. 630)

1-805. FURTHER ACTION. The PBC shall have the authority to adopt bylaws, resolutions or other official actions authorized by the Act and not inconsistent with the provisions of this Ordinance to govern its actions. (Ord. 630)

1-806. SEVERABILITY. If any provision of this Ordinance is deemed or ruled unconstitutional or otherwise illegal or invalid by any court of competent jurisdiction, such illegality or invalidation shall not affect any other provision of this Ordinance. This Ordinance shall be enforced and construed as if such illegal or invalid provision had not been contained herein. (Ord. 630)

ARTICLE 9. PARK AND TREE BOARD

1-901. CREATION. There is created and established a Park and Tree Board to the Governing Body of the City of Maize, Kansas (the "Board"). (Ord. 831)

1-902. MEMBERSHIP. (a) The Board shall consist of seven (7) members. A quorum of Board members for meeting purposes and for conducting business shall consist of not less than four (4) Board members. All members of the Board shall be appointed by the Mayor, by and with the advice and consent of the Governing Body. The initial appointments by the Mayor shall be for either a four (4) year term or a two (2) year term in order that the expiration of the terms are staggered. Appointments thereafter shall be for four (4) year terms. The term of persons who are appointed to fill an unexpired term due to a resignation or removal of a member shall expire on the date of expiration of the unexpired term they were appointed to fill. At all times to the degree possible a majority of the members shall consist of residents of the City of Maize, Kansas (the "City"). Members shall serve without compensation.

(b) Regular attendance is an important responsibility of membership. Maintaining a quorum for voting purposes is especially important. Any member who is absent for more than six (6) meetings in a year's time (for reasons not considered justifiable by the Governing Body) may be notified by the Mayor that their membership has been declared vacated and a replacement appointment shall be made.

(Ord. 831)

1-903. PURPOSE AND DUTIES OF THE BOARD. (a) The Board shall have the following powers, duties and responsibilities:

(1) Monitor the planning, coordination, and execution of the City Parks programs.

(2) Evaluate sites and facilities suitable for the present or future of residents of the City and make recommendations to the Governing Body relative to the acquisition or disposition of any land used or to be used for public parks.

(3) Make recommendations concerning operating budget priorities for City parks.

(4) Make recommendations on City park projects.

(5) Solicit grants and gifts of sites, facilities, and funds and seek the cooperation of agencies and groups in the development and maintenance of City parks and recreational facilities.

(6) Recommend financing mechanisms for the implementation of the City parks and open space plan.

(7) Perform duties assigned to the Board as set forth in Article 13, Section 3 of the Code of the City of Maize, Kansas.

(8) Such other responsibilities as may be assigned from time to time by the Governing Body.

(b) The Board shall meet at least once each month. The Board, upon formation, shall elect a chairperson, a vice-chairperson, and a secretary. Thereafter, the Board shall adopt by-laws, subject to approval by the Governing Body**.** The chairperson, vice-chairperson and secretary, after initial appointment, shall be elected at the first meeting of the Board in the month of May each year.

(Ord. 831)

1-904. SUPPORT SERVICES. The City Administrator or his or her designee shall provide administrative services to the Board. (Ord. 742)

1-905. SEVERABILITY. If any provision of this Article 1-9 is deemed or ruled unconstitutional or otherwise illegal or invalid by any court of competent jurisdiction, such illegality or invalidity shall not affect any other provision of the Article.

(Ord. 742)

CHAPTER II. ANIMAL CONTROL AND REGULATION

ARTICLE 1. GENERAL PROVISIONS

2-101. DEFINITIONS. For the purpose of this Chapter, the following words and phrases shall mean:

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

(b) **Animal**: Any live vertebrate creature, domestic or wild.

(c) **Animal Control Officer**: Any person empowered by the City to enforce or aid in the enforcement of this Chapter.

(d) **Animal Shelter**: Wichita Animal Shelter, which is hereby designated by the City as the facility for the boarding and disposition of any animal impounded under the provisions of this Chapter or any City ordinance or law of the state of Kansas.

(e) **Attack**: Any violent or aggressive physical contact with a person or domestic animal, or violent or aggressive behavior that confines the movement of a person, including, but not limited to, charging, cornering, chasing or circling a person.

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

(g) **Cat**: Any member of the species *felis catus*, regardless of sex.

(h) **Common Areas of Condominiums, Townhouses and Apartment Buildings**: Includes, but is not limited to, the yards, grounds, garden areas, play areas, clubhouses, swimming pools, sidewalks, walkways, common garage areas, entryways, hallways and driveways of condominiums, townhouses or apartment building complexes.

(i) **Control of a Dog or any other animal**: To physically restrain by means of an appropriate pen or by a chain or leash held by a responsible person who possesses sufficient strength for physical control of the animal.

(j) **Direct Control of a Dog**: To physically restrain a dog by a substantial chain or leash by a responsible person who possesses sufficient strength for physical control of the animal.

(k) **Dog**: Any member of the species *canis familiaris*, regardless of sex. Such term shall not include hybrid breeds of dogs which have been bred to a wild animal.

(l) **Guard Dog**: Any dog placed within an enclosure for the protection of persons or property by attacking or threatening to attack any person found within the enclosure patrolled by such dog.

(m) **Harbor**: The act of keeping or caring for an animal or providing premises to which the animal returns for food, shelter, or care.

(n) **Harborer**: See Owner, Keeper, Harborer.

(o) **Humane Traps**: Box-type or live-type traps which do not cause bodily harm to the animal intended to be captured or any animal or person coming in contact with such trap.

(p) **Identification Tag**: The official City of Maize-issued tag with engraved numerical license number.

(q) **Inhumane Treatment**: Any treatment to any animal which deprives the animal of necessary sustenance, including food, water and protection from the weather; endangers the safety, health or well-being of an animal from heat, cold or lack of adequate ventilation; any treatment such as overloading, overworking, tormenting, beating, mutilating, teasing or other abnormal treatment; or causing or allowing the animal to fight with any other animal.

(r) **Keeper**: See Owner, Keeper, Harborer.

(s) **Livestock**: Includes, but is not limited to, cattle, horses, swine, goats, sheep or other animals, commonly regarded as farm animals. Animals kept as house pets, such as pygmy goats or pot belly pigs, shall not be declared livestock if the animal resides on the property in living conditions commonly associated with the manner of maintaining a pet animal.

(t) **Microchip**: A passive transponder which can be implanted in an animal and which is a component of a radio frequency identification (RFID) system.

(u) **Mistreatment**: Includes every act or omission which causes or unreasonably permits the continuation of unnecessary or unjustifiable pain or suffering.

(v) **Neglect**: Includes the failure to provide food, water, protection from the elements, opportunity for exercise or for other normal, usual and proper care for an animal's health and wellbeing.

(w) **Neighbor**: Any person residing within 200 feet from the outermost property line of the property where a domestic animal is owned, kept or harbored.

(x) **Nuisance Animal**: Any animal that commits repeated acts that irritate, perturb or damage rights and privileges common to the public or enjoyment of private property or indirectly injures or threatens the safety of a member of the general public. Such actions include, but are not limited to:

i. Damage to public or private property including, but not limited to, breaking, bruising, tearing up, digging up, crushing or injuring any lawn, garden, flower bed, plant, shrub or tree in any manner;

ii. ripping any trash bag or tipping any solid waste collection container which spills or scatters trash, debris, refuse or waste.

iii. Repeatedly defecating upon any public place or upon premises not owned or controlled by the animal's owner, provided that this definition shall not apply where such waste is immediately removed and properly disposed of by the owner of such animal.

iv. Allowing or permitting an animal to be maintained in an unsanitary condition so as to be offensive to sight or smell.

v. Causing a condition which endangers public health or safety.

(y) **Owner, keeper or harborer**: any person who possesses, harbors, keeps, feeds, shelters, maintains or offers refuge or asylum to any animal, or who professes to keeping, owning or harboring such animal. In addition, any person who signs a receipt as owner, keeper or harborer for the return of an animal from any shelter or animal holding facility shall be presumed to be the owner, keeper or harborer of the

animal. A parent or legal guardian shall be deemed to be an owner, keeper or harborer of animals owned, kept or harbored upon their premises by minor children who are less than 18 years of age. Such term shall also include any person who exercises control over or is in possession of any such animal. The term “Owner” when used in this Chapter shall be construed to include “Keepers” and “Harborers.”

(z) **Person**: any individual, firm, association, joint stock company, syndicate, partnership, corporation, other state franchised business entity such as a professional association, limited liability company, or limited liability partnership, or other organization of any kind.

(aa) **Pet Animal**: Includes dogs, cats, rodents, birds, reptiles, potbelly pigs, pygmy goats and any other species of animal which is sold or retained as a household pet, but does not include skunks and other species of the wild, exotic or carnivorous animals that may be further restricted in this Chapter.

(bb) **Picket**: Attaching a leash, rope, chain, lead or other similar apparatus or device to the body of an animal and another object for the purpose of confining the animal or limiting the movement of the animal.

(cc) **Pit Bull dog**: Any and all of the following dogs:

i. The Staffordshire Bull Terrier breed of dogs;

ii. The American Staffordshire Terrier breed of dogs;

iii. The American Pit Bull Terrier breed of dogs;

iv. Dogs which have the appearance and physical characteristics of being predominately of the breeds of dogs known as Staffordshire Bull Terrier, American Pit Bull Terrier or American Staffordshire Terrier.

v. A dog which possesses five out of the following eight characteristics to be a Pit Bull:

1. Head is medium length, with a broad skull and very pronounced cheek muscles, a wide, deep muzzle, a well-defined, moderately deep stop, and strong under jaw. Viewed from the front, the head is shaped like a broad, blunt wedge.

2. Eyes are round to almond shaped, are low in the skull and set far apart.

3. Ears are set high. Uncropped ears are short and usually held rose or half prick, though some hold them at full prick.

4. Neck is heavier and muscular, attached to strong, muscular shoulders.

5. Body is muscular, with a deep, broad chest, a wide front, deep brisket, well-sprung ribs, and slightly tucked loins.

6. Tail is medium length and set low, thick at the base, tapering to a point.

7. Hindquarters are well muscled, with hocks, set low on the legs.

8. Coat is a single coat, smooth, short and close to the skin. Pit Bull puppies have the same characteristics, though in juvenile and adolescent form, muscles along with breadth and depth of head and chest may be less developed. Specifically excepted from this definition is any dog with proof, by a written certification from a veterinarian licensed by the State of Kansas, that the dog does not contain in its lineage any American Pit Bull Terrier, American Staffordshire Terrier or Staffordshire Bull Terrier.

(dd) **Rabbits, Poultry and Domestic Fowl**: Includes; rabbits, pigeons, chickens, chicks, ducks, geese, turkeys, doves, squabs and all similar domestic fowl other than pet animals.

(ee) **Running at Large**: An animal off the premises of its owner and not effectively controlled and restrained by means of a leash, cord, or chain not exceeding ten (10) feet in length. For the purposes of this definition, "the premises of its owner" shall not include common areas of the grounds of a condominium, townhouse or apartment, and unrestrained animals upon those areas shall be deemed to be running at large. The phrase "effectively controlled and restrained" does not exclude extendable leashes that are maintained at ten (10) feet of length or less. It shall be a question of fact whether an individual, due to age, ability, or attention was able to effectively control and restrain an animal by means of a leash, cord, or chain of any length.

(ff) **Service Dog**: A dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability as defined by the Americans with Disabilities Act (ADA).

(gg) **Temperature and Ventilation Standard**: The City hereby adopts the standards promulgated by the American Society for the Prevention of Cruelty to Animals (ASPCA) in association with temperature and ventilation standards. The ASPCA has determined that when the outside temperature is 85 degrees, the inside of a vehicle will reach 102 degrees within ten (10) minutes, even with the windows cracked. In half an hour, the temperature inside a closed vehicle will soar to 120 degrees, which can be lethal to an animal in minutes. Because animals cannot sweat, they cannot control their body temperature in intense heat, leading to extensive organ damage, heatstroke or suffocation.

(hh) **Vicious Propensity**: A known tendency or disposition to approach any individual or domestic animal in an attitude of attack when there is no provocation. The tendency or disposition may be shown by previous documented acts of "attack" or "bite" as defined above.

(ii) **Wild Animals**: Includes all species of animals which exist in their natural unconfined state and the majority of such species are not domesticated. (Ord. 940, Sec. 1)

ARTICLE 2: LICENSING AND REGISTRATION

2-201. REGISTRATION; TAGS. The owner of any dog of the age of six months or over shall cause the same to be registered with the City. The registration shall be maintained in the City's electronic permit/registration system. Said registration shall contain the name, address and telephone number of the animal's owner, the animal's breed, name, sex, whether spayed/neutered, color and description and such other information as may be deemed necessary. The City Clerk, authorized assistants, or authorized vendors shall, upon payment of the license fee, provide the owner of the dog a receipt and shall also issue a suitable metallic or plastic tag, bearing a number and stating the year for which the tag is issued. The person to whom the tag is issued shall thereafter cause such tag to be attached to a suitable collar or harness worn by the dog.

It shall be unlawful for the owner of any newly acquired dog or any dog brought into the City to fail to register such animal within 30 days from acquisition or bringing the dog into the City. It shall be unlawful for the owner of any previously registered dog to fail to maintain current registration of such dog. It shall be unlawful for any person to

place on any dog a tag issued for any other dog or to make or use any false, forged or counterfeited tag or imitation thereof.

At the time of registration, the owner of any dog shall present to the City a certificate from any accredited veterinarian showing that the dog has been vaccinated against rabies with an approved vaccine. This certificate shall also show if the animal is spayed or neutered. The owner shall also provide information regarding whether the dog is contained within a fenced yard or fenced run. The premises shall be available for inspection to insure a fenced yard or fenced run is available that can adequately confine the dog.

It shall be unlawful for any person to make a false statement in an application for a license, and a false statement shall render null and void the license issued. (Ord. 940, Sec. 2)

2-202. ANNUAL LICENSE FEE. There shall be imposed an annual license fee upon owners of each dog the age of six months or over. The standard license fee is $35 per dog. If the owner furnishes a certificate showing that the animal has been micro-chipped, the license fee is $25 per animal. If the owner furnishes a certificate showing that the animal has been spayed or neutered the license fee is $20 per animal. If the owner testifies that the animal is confined in a fenced yard or fenced run, the license fee per animal is $15. If the owner provides proof that the animal is both spayed/neutered and is confined in a fenced yard or fenced run the license fee per animal is $10.

All licenses issued under this Article 2 will expire one year from the date the license is issued. A late fee of $1 shall be assessed for each month beginning 30 days after the expiration of any previous annual registration for failure to renew. Any dog not licensed with the City within a period of 60 days after the licenses has expired may be cited for failure to license a dog. Any person who keeps, harbors or owns an unlicensed dog may be cited for keeping an unlicensed dog. (Ord. 940, Sec. 2)

2-203. INOCULATION AGAINST RABIES REQUIRED. No license tag required by this Chapter for any animal over five months old will be issued unless the owner of the animal furnishes a certificate showing the animal has been inoculated against rabies as set forth below:

i. Inoculation must be performed by a person licensed to practice veterinary medicine in the State of Kansas.

ii. Inoculation must be with a prophylactic vaccine approved by the United States Department of Agriculture and listed in the current National Association of State and Public Health Veterinarians' Compendium of Rabies Control.

iii. Annually, a veterinarian must certify to the City that such dog has been properly vaccinated in accordance with the current compendium of rabies control. Annually, a new vaccination tag shall be assigned to such dog.

iv. Unless a licensed veterinarian certifies to the City that such vaccination would be injurious to such dog due to its age or health, all dogs or cats must be vaccinated for rabies by a licensed veterinarian at least every three years. Ferrets must be vaccinated for rabies annually. (Ord. 940, Sec. 2)

2-204. ENUMERATION OF ANIMALS. The City Council may require an annual enumeration of all dogs and cats owned within the City. The enumeration shall account for the number and ownership of all dogs and cats owned in the City and the City shall do whatever follow up is necessary to ensure that all dogs over six months harbored in the City are vaccinated and licensed. (Ord. 940, Sec. 2)

2-205. FEES TO GENERAL FUND. All fees, charges and penalties paid to or collected by the City under or pursuant to the provisions of this Article shall be paid to the City Clerk and credited to the general operating fund. (Ord. 940, Sec. 2)

ARTICLE 3. ANIMAL CONTROL AND PROTECTION

2-301. UNLAWFUL KEEPING OF ANIMALS. It shall be unlawful for any person to keep, harbor, own or in any way possess within the corporate limits of the City:

(a) on premises of less than one (1) acre of contiguous land area: any horse, donkey, mule or other equine; sheep; goat; swine; cow, ox or other bovine; or large ratite;

(b) not more than one of the animals listed at Section 2-301(a) may be kept, harbored, owned or in any way possessed on premises that are between one acre of contiguous gross land area and less than two (2) acres of contiguous land area;

(c) one (1) additional animal per acre, above the number allowed in Section 2-301(a)(1) of the animals listed at Section 2-301(a), may be kept, harbored, owned or possessed on premises that consist of contiguous land area that is two (2) acres or larger; i.e., two of the above-listed animals on two acres or more, three on three acres or more, four on four acres or more, etc.

(d) Roosters (male chickens), guinea cocks, peacocks or other birds that by nature exhibit loud calls;

(e) More than two (2) rabbits or more than three (3) fowl on any one (1) premises;

(f) Any warm-blooded, carnivorous or omnivorous, wild or exotic animal (including but not limited to non-human primates such as apes, chimpanzees, gibbons, gorillas, orangutans, siamangs, and baboons, as well as bears, bison, bobcats, cheetahs, crocodilians, constrictor snakes, coyotes, deer, white-tailed deer, elk, antelope, moose, elephants, game cocks or other fighting birds, hippopotami, hyenas, jaguars, leopards, lions, lynxes, monkeys, ostriches, pumas, cougars, mountain lions, panthers, raccoons rhinoceroses, skunks, tigers, foxes and wolves; but excluding ferrets and small rodents of varieties used for laboratory purposes);

(g) Any mammal, amphibian, fish, reptile or fowl which is of a species which, due to size, vicious nature or other characteristics would constitute a danger to human life, physical well-being, or property, including but not limited to snakes which are venomous or otherwise present a risk of serious physical harm or death to human beings as a result of their nature or physical makeup including, but not limited to, boa constrictors, Madagascar ground boas, green and yellow anacondas, Cuban boas, Indian pythons, reticulated pythons, African rock pythons, Amethystine pythons, Boelens pythons and all members of the family pythonidae that exceed 6 feet in length. (Ord. 940, Sec. 3)

2-302. COLLAR OR HARNESS REQUIRED. The owner of any dog shall cause the

same to wear a collar or harness while such animal is outside the dwelling of the owner. The tag required in Section 2-201 shall be securely affixed to the collar or harness of each dog registered. The tag shall be situated on the collar or harness in such a manner that it may at all times be easily visible to law enforcement officers or animal control officers of the City. When so requested, replacement tags shall be issued for $1 each, upon presentation of the receipt. It shall be unlawful for any person to take off or remove the City registration tag from any dog belonging to another, or remove the strap or collar on which the same is fastened. (Ord. 940, Sec. 3)

2-303. PRESENTATION OF ANIMAL. The owner of any animal shall physically produce the animal for observation, identification or inspection when requested to do so by a City animal control officer or law enforcement officer investigating a violation of the animal control and/or welfare laws of the City, provided the officer has probable cause to believe a crime or violation of the animal control laws has been committed. Failure to do so is unlawful. (Ord. 940, Sec. 3)

2-304. NUMBER OF DOGS AND CATS PERMITTED; PERMITS. The owning, keeping or harboring of up to a maximum of two dogs and up to a maximum of three cats upon any premises or property or in any dwelling or living quarters of any type within the City is permitted. There shall be a rebuttable presumption that the owning, keeping or harboring of more than two dogs and/or three cats upon any premises or property or in any dwelling or living quarters of any type within the City shall be considered a nuisance and is prohibited; provided:

(a) Any person who desires to own, keep, or harbor more than two dogs and/or more than three cats may apply to the City Clerk or designee for an "Animal Maintenance Permit" that shall, upon issuance, permit the applicant to own, keep or harbor the animals specifically allowed in that permit.

(1) All applicants must rebut the presumption of a nuisance and adequately show that special circumstances exist that justify the keeping of the subject animals, and that the keeping of additional animals will not create a nuisance in the surrounding neighborhood, that humane care will be provided and that the premises where the animals are kept is suitable for the keeping of multiple animals and is in conformity with all City zoning requirements. The criteria to be evaluated include, without being limited to, the following:

(A) That the animals will be kept or maintained at all times in a safe and sanitary manner;

(B) That the quarters in which such animals are kept or confined will be adequately lighted and ventilated and are so constructed and maintained that they can be kept in a clean and sanitary condition;

(C) That the health and wellbeing of the animals will not in any way be endangered by the manner of keeping or confinement;

(D) That the keeping of such animals will not harm the surrounding neighborhood or disturb the peace and quiet of the surrounding neighborhood;

(E) That the keeping of such animals will not cause fouling of the air by offensive odors and thereby create or cause unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animals are kept or harbored;

(F) That the animals will not unreasonably annoy humans, endanger the life, health or safety of other animals or persons or substantially interfere with the rights of citizens to the enjoyment of life or property.

(G) That the animals will not repeatedly run or be found at large, will not damage or deposit excretory matter upon the property of anyone other than their owner, and will not chase vehicles or molest or intimidate pedestrians or passersby.

(H) That the animals will not make disturbing noises, including but not limited to, continued and repeated or untimely howling, barking, whining or other utterances causing unreasonable annoyance, disturbance or discomfort to neighbors and others in close proximity to the premises where the animals are kept or harbored, or otherwise be offensive or dangerous to the public health, safety or welfare, by virtue of their behavior, number, type or manner of keeping.

(I) That the applicant, or any person who will share in the care, custody and control of the animals is not currently in violation of or has not previously violated any applicable City, state or federal laws, codes, rules or regulations, including, but not limited to, those pertaining to the care and control of animals and the maintenance of their property, which would reflect adversely on their ability to fully comply with the conditions of the subject permit.

(b) The City Clerk or designated agent shall establish an application process to be followed by all individuals seeking an animal maintenance permit. The permit shall be issued on an annual basis. The fee for such animal maintenance permit shall be $50 the first year and $10 for each renewal year. These fees are in addition to regular licensure fees for each animal. All fees shall be nonrefundable and nontransferable. The animal maintenance permit shall be issued for the individual animals listed in the application and shall not be transferable to other animals. Should an animal subject to the permit be replaced, a new application, permit, and $50 permit fee shall be required. The fact an individual has previously been issued an animal maintenance permit may be considered but shall not be controlling in the decision to issue an animal maintenance permit for a different animal.

(c) The Chief of Police or designated agent shall deny any application where the applicant fails to show proof of the aforementioned requirements, or an examination of the documentation submitted by the applicant or an investigation by an animal control officer or the police department, or both, reveals that in their opinion the applicant has failed to meet the requirements of this Section. Any application for the combination of a maximum of six animals (with a maximum of four dogs; maximum of six cats), shall be required to show proof of meeting the required standards by clear and convincing evidence. The animal control officers or police department shall submit a written report of its investigation stating the factual basis for its recommendation to grant or deny any application. The animal control officers or police department shall consider the comments of neighbors, past violations by applicant, the size, condition and location of the area where the animals will be kept, the size of the animals to be kept, past complaints concerning the applicant, the burden of proof and the criteria set forth in this Section, or any other factors relative to the issue of keeping additional animals.

(d) More than four dogs is considered a kennel. More than six cats is considered a cattery. Kennels and/or catteries are not allowed in any residential area. The Chief of Police or designee may issue a kennel permit to any person who keeps dogs or cats for breeding or selling on a commercial basis within the City. The applicant must be in conformity with the City zoning ordinances and state laws, must not have been convicted of violating the cruelty or animal welfare laws of this

or any other jurisdiction, and must make a satisfactory showing that the area for housing the animals will provide a humane standard of care and will not constitute a nuisance to the surrounding neighborhood. The fee for such a blanket permit shall be as follows: 1- 2 litters per year - no license required; 3 or more litters per year, animal pounds and pet stores - $100 per year. The fee is due on or before February 1st of each year, provided all animals owned, kept or harbored pursuant to this paragraph that are six months of age or older must be licensed in accordance with this Article. In addition, no more than one kennel permit shall be issued per premises.

(e) The permits described in this Section may be revoked by the Chief of Police or designee upon a showing that the animal's place of keeping constitutes a nuisance to the surrounding neighbors, that humane standards of care are not being met by the permittee, or that a violation of City zoning regulations has occurred, or that the permittee had provided false information in their application. (Ord. 940, Sec. 3)

2-305. DOG CONTROL. (a) Dog Control. All dogs must be confined to the residential property of the owner of the dog; provided, dogs may be taken off the residential property of the owner when:

(1) the dog is on a leash no longer than 10 feet in length and under the control of a responsible person. Whether a person is responsible shall be determined by giving due consideration to the size and temperament of the animal; provided, all dogs determined to be vicious and registered as vicious animals under the provisions of this Article shall be muzzled when off the residential property of the owner and shall be under the control of an adult;

(2) the dog is confined in a cage or within the enclosed interior of a motor vehicle;

(3) the dog is under the control of the owner and during the conduct of an AKC, UKC or other kennel club or organized dog club trial, show or exhibition, or during organized public animal exhibitions or competitions;

(4) the dog is under the control of the owner and during the conduct of training a dog for legal hunting activities, provided that if such training includes the discharge of a firearm, the conditions of the Uniform Public Offense Code and Kansas state law must be complied with; provided further, no training for hunting purposes will be conducted on any property without the permission of the landowner upon whose property the training is occurring; provided further, that such training and/or hunting activities are prohibited from all public parks and recreational facilities.

(b) For the purpose of this Section, confined to the residential property of the owner shall mean, but not be limited to mean, confined either inside the residential structure of the owner or, if outside the residential structure of the owner, the dog shall be physically restrained on a chain or leash or within a suitable fence or other proper method of physical restraint from which it cannot escape; provided:

(1) If the dog is in the physical presence of its owner and on its owner's property and under the demonstrated direct and immediate voice control of its owner, it shall be considered confined to the residential property of its owner. It shall not be considered confined to the residential property of the owner if the dog is off the property of the owner, whether it is under the demonstrated direct and immediate voice control of its owner or not.

(2) Dogs may be confined to the premises of the residential property of their owner by an electronic fence or an electronic collar. An electronic fence or electronic collar is defined as a fence or a collar that controls the movement of a dog by emitting an electrical shock when the animal wearing the collar nears the boundary of the owner's property. The collar may be controlled manually by a person or automatically in a predetermined manner. Dogs confined to residential property of the owner by an electronic fence or an electronic collar shall not be permitted to be nearer than 10 feet from any public sidewalk or property line that is contiguous to neighboring property. In addition, dogs are prohibited from being confined by an electronic fence or an electronic collar in the front yards of an owner's property. No dog having been found a dangerous animal by the City shall be confined by an electronic fence or an electronic collar. (Ord. 940, Sec. 3)

2-306. RUNNING AT LARGE. (a) It shall be unlawful for the owner of any animal other than a cat or cats to permit the same to run at large.

(b) Any owner of any animal, other than cats, found running at large within the corporate limits of the City shall be deemed guilty of a misdemeanor. Knowledge or intention on the part of the owner shall not be elements of this offense. The animal control officer may seize, impound and cause to be destroyed any such animal, pursuant to the provisions of K.S.A. 47-1701 *et seq.*, and amendments thereto. The animal control officer may cause any such impounded animal to be returned to its rightful owner upon the payment of a service charge, a boarding fee for days spent in confinement at the shelter prior to the return of the animal, and citations for the animal for running at large, and all other applicable citations for violation of this code.

(c) Any animal injured or found to be ill on public property while running at large shall be removed by an animal control or police officer who shall, if necessary, place such animal or animals in the custody of a doctor of veterinary medicine duly licensed by the state of Kansas for treatment of injury or illness, and the owner of any such animal or animals shall be liable for veterinary, impound or related expenses.

(d) The owner of an injured animal taken to a veterinarian by the animal control officer or a police officer is responsible for payment of charges for veterinary services related thereto. The owner shall reimburse the City for all expenditures the City may pay for veterinary services rendered to or on behalf of the owner's animal under this Section, and the costs and fees may be ordered as restitution associated with any citation issued under this Section.

(e) If any animal dies while running at large on public property, the owner shall be liable for disposal fees established by the animal shelter in addition to penalties for violation of this Section as set out in Article 7. (Ord. 940, Sec. 3)

2-307. HABITUAL VIOLATOR; AGGRESSIVE ANIMAL AT-LARGE. It shall be a separate offense for any person to receive two or more citations for violation of Section 2-306 within a 36 consecutive month period. Such person shall be cited as a habitual violator. Violation of this Section may be found when a single individual has been adjudicated guilty of a violation of Section 2-306(a) regardless of the number of animals involved in such violations. Any person found guilty of a violation of this Section shall be fined a minimum of $500 and a maximum of $1,000 for each habitual violator citation. The Municipal Court Judge shall have no discretion to suspend the minimum fine or any portion thereof. A person cited for violation of this

Section shall be required to appear in Municipal Court. In addition, the Municipal Court Judge shall have the authority to sentence the individual to up to six (6) months in jail. It shall be a defense to an alleged violation of this Section for the violator to have been adjudged not guilty of a charge under Section 2-306, or that the charge was dismissed without a finding of, or admission of, guilt. (Ord. 940, Sec. 3)

2-308. BARKING DOGS. (a) It shall be unlawful for the owner of any dog to permit such dog, by loud and persistent or habitual barking, howling or yelping, to disturb any person or neighborhood, and the same is hereby declared to be a public nuisance.

(b) Either the animal control officer or a law enforcement officer may issue a citation for violation of subsection (a) above upon receiving two complaints within two weeks for excessive barking by the same dog from at least two separate and independent complainants, or upon receiving one complaint and personally observing such excessive barking.

(c) Complainants shall sign a written complaint noting the date and time of the barking, the length of the barking episode(s), the animal believed/known to be barking, and any additional relevant information concerning the excessive barking.

(d) Animals who are found to bark excessively following teasing or harassment by neighbors shall not be found to have violated this Section. (Ord. 940, Sec. 3)

2-309. ANIMAL BITES. (a) No person who owns, possesses, harbors or exercises control over any animal shall do the following:

(1) Permit or allow the animal to attack or bite any person or domestic animal not on the premises of such owner;

(2) Permit or allow the animal to attack or bite any person or domestic animal upon the premises of the residence of such owner or upon the premises of any business establishment not then open to the public. It is an affirmative defense to this paragraph if such premises are previously posted at each entrance with a prominent and conspicuous sign warning all persons of the animal, and the animal is confined in a proper enclosure. It is also an affirmative defense to this paragraph that the attack or bite by the animal was necessary to prevent or apprehend a person engaged in committing an act of violence, robbery, theft or other crime upon the property;

(3) Permit or allow the animal to attack or bite any person or animal upon the premises of any business establishment that is open to the public. It is an affirmative defense to this paragraph that the attack or bite by the animal was necessary to prevent or apprehend a person engaged in committing an act of violence, robbery, theft or other crime upon the property.

(b) For the purposes of this Section, the word “permit” shall mean allow or let happen. Knowledge or intention on the part of the person who owns, possesses, harbors or exercises control over the animal shall not be elements of this offense.

(c) The provisions of this Section shall not apply to any law enforcement officer who uses an animal while engaged in law enforcement activities, nor to any owner of any animal which attacks or bites a person engaged in physically attacking or striking such owner. (Ord. 940, Sec. 3)

2-310. CRUELTY TO ANIMALS. (a) Cruelty to animals is:

(1) intentionally killing, injuring, maiming, torturing, mutilating, beating or overworking any animal; this includes, but is not limited to, administering any poisonous substance with the intent that the same shall be taken or swallowed by any animal;

(2) acting or failing to act when the act or failure to act causes or permits pain or suffering to such animal;

(3) abandoning or leaving any animal in any place or releasing or dumping an animal from a vehicle without making provisions for its proper care; in addition, "abandon" means for the owner to leave an animal without demonstrated or apparent intent to recover or resume custody, to leave an animal for more than 12 hours without providing adequate food and shelter for the duration of the absence, or to turn out or release an animal for the purpose of causing it to be impounded;

(4) failing to provide adequate care, adequate food, adequate health care, adequate shelter or adequate water; or

(5) failing to provide veterinary care when needed to treat injury or illness unless the animal is promptly destroyed in a humane manner.

(b) The provisions of this Section shall not apply to:

(1) Normal or accepted veterinary practices;

(2) Bona fide experiments carried on by recognized research facilities;

(3) Killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of Chapter 32 or Chapter 47 of the Kansas Statutes Annotated or as permitted under Section 2-311 or Section 2-307 herein;

(4) Rodeo practices accepted by the Rodeo Cowboys' Association;

(5) The humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control by the owner thereof or the agent of such owner residing outside of the City or the owner thereof within the City if no animal shelter, pound or licensed veterinarian is within the City, or by a licensed veterinarian at the request of the owner thereof, or by any officer or agent of any incorporated humane society, the operator of an animal shelter or pound, public health officer or licensed veterinarian three business days following the receipt of any such animal at such society, shelter or pound;

(6) With respect to farm animals, normal or accepted practices of animal husbandry;

(7) The killing of any animal by any person at any time which may be found outside of the owned or rented property of the owner or custodian of such animal and which is found injuring or posing an immediate threat to any person, farm or domestic animal or property; or

(8) The killing of any animal by an animal control officer or law enforcement officer trained in the use of a tranquilizer gun, using such gun with the appropriate dosage for the size of the animal, when such animal is vicious or could not be captured after reasonable attempts using other methods. (Ord. 940, Sec. 3)

2-311. SEIZURE AND DISPOSITION OF ANIMALS. (a) Any public health officer, animal control officer, law enforcement officer or licensed veterinarian, or any officer or agent of any duly incorporated humane society, animal shelter or other appropriate facility, may take into custody any animal, upon either private or public property, which clearly shows evidence of cruelty to animals, as defined herein, and when failure to do so would result in further injury or pain and suffering to the

animal. Such officer, agent or veterinarian may inspect, care for or treat such animal or place such animal in the care of a duly incorporated humane society or licensed veterinarian for treatment, boarding or other care or, if it appears as determined by an officer of such humane society or by such veterinarian that the animal is diseased or disabled beyond recovery for any useful purpose, for humane killing.

(b) If a person is adjudicated guilty of the crime of cruelty to animals, as defined in Section 2-308(a) herein, and the court having jurisdiction is satisfied that an animal owned or possessed by such person would be in the future subjected to such crime, such animal shall not be returned to or remain with such person. (Ord. 940, Sec. 3)

2-312. ABUSE AND NEGLECT OF ANIMALS. (a) It shall be unlawful for an owner of an animal to fail to provide the animal with adequate care, adequate food, adequate water, adequate health care, and adequate shelter. Such shelter should be clean, dry, and compatible with the condition, age and species. An animal must also have the opportunity for adequate daily exercise. This requires that an owner must offer some freedom from continuous chaining, stabling or tethering. All restraints placed on an animal must be such that it prevents the animal from being tangled or injured by the restraint. The area where animals are kept must also be kept free from unsanitary conditions and vermin-harboring debris.

(b) It is unlawful for any person to offer to give or to give a live animal as a prize or as a business inducement or any other form of gratuity. (Ord. 940, Sec. 3)

2-313. INJURY TO A DOMESTIC ANIMAL. (a) Injury to a domestic animal is willfully and maliciously:

(1) Administering any poison to any domestic animal;

(2) Exposing any poisonous substance with the intent that the same shall be taken or swallowed by any domestic animal; or

(3) Killing, maiming, or wounding any domestic animal.

(b) This Section shall not apply to any person exposing poison upon their premises for the purpose of destroying coyotes or other predatory animals in accordance with state law, nor shall it apply to any licensed veterinarian who administers any such substance in the practice of veterinary medicine in accordance with the standards of the veterinarian profession.

(c) It is unlawful to injure a domestic animal in a willful or malicious way as described in this Section 2-311. (Ord. 940, Sec. 3)

2-314. RESCUE OF ANIMALS FROM VEHICLES. Whenever any animal is found confined in a motor vehicle in a public place under weather conditions that endanger its life as determined by an animal control or law enforcement officer, such is a violation of this Section and any animal control officer is hereby authorized, with assistance from the police, to enter such vehicle and rescue such animal and thereafter impound it. A prominent written notice shall be left on or in the vehicle advising that the animal has been removed under the authority of this Section and impounded, if such owner cannot be determined. (Ord. 940, Sec. 3)

2-315. COMMERCIAL ANIMAL ESTABLISHMENTS; STANDARDS. Any person operating a commercial animal establishment shall keep and maintain the animals, and all structures, pens, or yards, tanks, ponds or other holding areas in which the animals are kept, in such a manner as to prevent a nuisance or health hazard to

humans and to avoid injury and illness to these animals. All holding areas must be properly sanitized so as to keep the animals enclosed therein free of diseases. All such animals shall be provided with a constant supply of wholesome food and water or in lieu of this, the proprietor shall prominently and publicly post and shall follow a schedule for adequate feeding and watering. A schedule shall also be posted for cleaning and maintaining cages and other holding areas at the facility. Any animal that is infected or diseased with an infectious agent shall be immediately isolated in such a manner as to prevent spread of disease to any other healthy animals, and it shall be treated immediately to prevent further condition deterioration or euthanized, and if the owner fails or refuses to provide for such, the supervisor of animal control may remove each/such animal to the animal shelter for disposition. All commercial animal establishments must permit inspection of their records, premises and the animals harbored therein by animal control officers, law enforcement officers and City and state inspection officials. It is unlawful for any person to fail to comply with the standards set out in this Section 2-315. (Ord. 940, Sec. 3)

2-316. UNLAWFUL TRAPPING. Unlawful trapping is the utilization, except for display or exhibition purposes, of any trap, net, snare, or other trapping device which does not painlessly capture or immediately kill its victim; or the utilization of any trap of the type commonly known as steel jaw, leghold traps. (Ord. 940, Sec. 3)

2-317. UNLAWFUL TRADING IN ANIMALS. The giving away of any live animal, fish, reptile, or bird as a prize for, or as an inducement to enter any contest, game, or other competition; or as an inducement to enter a place of amusement or business; or offer such animal as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade is unlawful. (Ord. 940, Sec. 3)

2-318. DESTRUCTION OF CERTAIN ANIMALS. Law enforcement officers or animal control officers of the City or anyone having the authority of an animal control officer, as designated by the City Administrator or Chief of Police, may kill any dog, cat, domestic animal or warm-blooded animal without notice to the owner thereof, whether or not it bears the required tag, if such dog, cat, domestic animal or warm-blooded animal is deemed by the officer to be a vicious animal, or injured severely with no apparent chance of survival, or in such pain as to warrant humane destruction. The remains of any such animal so destroyed may be preserved by such officers to permit a test to be conducted for rabies. (Ord. 940, Sec. 3)

2-319. DISEASE CONTROL; QUARANTINE. When rabies or other communicable diseases are known to exist in the community, or when it is known to exist in neighboring communities, the Mayor may declare a quarantine of all dogs, cats, other domestic animals and any other warm-blooded animals. It shall be the duty of the owner of the dog, cat, other domestic animal and any other warm-blooded animal to keep such dog, cat, other domestic animal and any other warm-blooded animal confined to the premises of such owner and under control. (Ord. 940, Sec. 3)

2-320. ENFORCEMENT OF QUARANTINE. It shall be the duty of all animal control officers, or anyone having the authority of an animal control officer, law enforcement officers, or those having the authority of law enforcement officers to enforce such quarantine. The City Administrator and the Chief of Police shall have the right to deputize other persons as needed. Such deputized persons need not seize such

animals but shall aid in determining the owner to the end that warrants of arrest can be issued against the violating owners. (Ord. 940, Sec. 3)

2-321. DEAD ANIMALS; DUTY TO REPORT. It shall be unlawful for any person to put any dead animal in any street, avenue, alley, or other public place in the City and it shall be the duty of the owner and all persons having knowledge of any dead animal on public property in the City to immediately report the same to the police department, giving the kind of animal and the place where the same may be found. It shall be the duty of the police department, immediately upon receipt of such report, to remove or provide for the removal of such dead animal. (Ord. 940, Sec. 3)

2-322. REMOVAL OF DEAD ANIMAL. It is the responsibility of the owner of the premises to remove all deceased animals within 12 hours after the death of such animal. If not so removed, the police department shall cause the animal to be removed and the cost of removal will be assessed against the owner. (Ord. 940, Sec. 3)

ARTICLE 4. DANGEROUS DOGS

2-401. DANGEROUS DOG DESIGNATION; DISPOSITION; APPEAL. (a) The animal control officer, Chief of Police, or their designee, may declare a dog to be dangerous based on:

(1) the nature of any attack committed or wound inflicted by the animal;

(2) the past history and seriousness of any attacks or wounds inflicted by the animal;

(3) the potential propensity of the animal to inflict wounds or engage in aggressive or menacing behavior in the future;

(4) the conditions under which the animal is kept and maintained which could contribute to, encourage, or facilitate aggressive behavior, such as, but not limited to, allowing the animal to run at large, tethering in excess of legal limits as defined in this Chapter, physical property conditions, presence of young children, the elderly or infirm within or residing near the home, any past violations of this Chapter and/or failing to provide proper care, food, shelter or water.

(b) The Chief of Police, in determining whether a dog is a dangerous dog, shall also consider the following:

(1) if the dog was actively being used by a law enforcement official for legitimate law enforcement purposes; or

(2) if the threat, injury or damage was sustained by a person:

i. who was committing, at the time, a criminal trespass or other wrongful act upon the premises lawfully occupied by the owner of the dog; or

ii. who was provoking, tormenting, abusing, or assaulting the dog or who can be shown to have repeatedly, in the past, provoked, tormented, abused or assaulted the dog; or

iii. who was committing or attempting to commit a crime; or

iv. if the dog was responding to pain or injury.

(c) Upon finding that a dog is dangerous, the Chief of Police or designee will notify the owner of the dangerous dog whether the dog should be removed from the City or may be maintained under conditions described in Sections 2-403, 2-404 and 2-405. Notice will be sent to an owner of a dangerous dog in the following manner:

(1) by personal service at the dog owner's usual place of abode by leaving a copy of the notice with some person of suitable age and discretion residing therein; or

(2) by certified mail addressed to the owner's last known address, or addressed to the location where the dog is maintained/harbored. Service by certified mail will request a return receipt, with instructions to the delivering postal employee to show to whom it was delivered, the date of delivery, and the address where it was delivered. Service of process by certified mail shall be considered obtained upon the delivery of the certified mail envelope. If the certified mail envelope is returned with an endorsement showing refusal of delivery or failure to serve the letter for any reason, the Chief of Police or designee shall send a copy of the notice to the owner by ordinary first class mail. This first class mailing will be evidenced by a certificate of mailing. Service will be considered obtained upon the mailing of this additional notice by first class mail.

(d) If the Chief of Police or designee determines a dog is a dangerous dog that should be removed from the City, the owner will have five days after receiving notice as provided in Section 2-401(b) to remove the dog from the City. If the owner fails to remove the dog from the City within the five-day period, the Chief of Police or designee may cause the dog to be seized, impounded and disposed of. If the Chief of Police or designee determines a dangerous dog may be kept in accordance with conditions described in Sections 2-403, 2-404 and 2-405 the owner will have five days after receiving notice as provided in Section 2-401(b) to come into compliance with conditions set forth in Sections 2-403, 2-404 and 2-405. After the five-day period, if the owner fails or refuses to come into compliance with the conditions set forth in Sections 2-403, 2-404 and 2-405 the Chief of Police or designee may cause the dangerous dog to be seized, impounded and disposed of.

(e) It is unlawful to keep a dangerous dog if the owner of the dog is not in compliance with conditions set forth at Sections 2-403, 2-404 and 2-405 following the five-day period after receiving notice that the dog is a dangerous dog that must be maintained under conditions set forth in Sections 2-403, 2-404 and 2-405. (Ord. 940, Sec. 4)

2-402. APPEAL OF FINDING THAT A DOG IS A DANGEROUS DOG. (a) The owner of a dog declared to be dangerous may request a review of the determination that the dog is a dangerous dog by filing a written request with the City Administrator within ten days of the receipt of a notification from the Chief of Police.

(b) Upon receipt of a request for review, the City Administrator shall hold a hearing within ten days to review the determination by the Chief of Police that a dog is a dangerous dog.

(c) The City Administrator or designee ("City Administrator"), in reviewing a determination of the Chief of Police that a dog is a dangerous dog will consider the factors set out at Section 2-401(a). If the City Administrator decides a dog is a dangerous dog, the City Administrator will decide whether the dog should be removed from the City or may be maintained in compliance with conditions set forth in Section 2-403, 2-404 and 2-405. The Chief of Police or designee shall attend the City Administrator's hearing. The dangerous dog owner and the Chief of Police or designee will present evidence at the hearing. Witnesses who testify at the hearing will be subject to cross-examination.

(d) Pending a decision by the City Administrator on the review, the owner shall comply with the determination of the Chief of Police as to whether the dog should be

removed from the City or maintained in compliance with the conditions set forth in Sections 2-403, 2-404 and 2-405. The City Administrator's decision is a final decision which, in compliance with state statute, be appealed to the 18th Judicial District, District Court of Sedgwick County, Kansas. (Ord. 940, Sec. 4)

2-403. DANGEROUS DOG; FAILURE TO CONFINE; DESTRUCTION AND DEFENSES. (a) It is unlawful for an owner of a dog designated to be a "dangerous dog" that is not ordered removed from the City, to permit the dog to be outside an approved or secure enclosure unless the dog is restrained by a substantial chain or leash and under physical restraint by a responsible person who is 18 years of age or older and possesses sufficient strength for physical control of the animal for the purpose of transportation to and from a veterinarian for medical treatment. In such event, the dangerous dog shall be securely muzzled and restrained with a chain or leash not exceeding four feet in length and shall be under the direct control and supervision of the owner of the dangerous dog. The muzzle shall be made and used in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal.

(b) Secure or approved enclosures required under this Section must be approved by the Chief of Police or designee and be adequately lighted and kept in a clean and sanitary condition.

(c) The owner shall allow access to the property where the dangerous animal is being harbored, to facilitate inspections and insure compliance for the duration of the life of the animal. Failure to allow access shall be *prima facie* evidence of a violation of this Section.

(d) The owner of any dog that has been determined to be dangerous shall be required to have the animal surgically sterilized by a licensed veterinarian within thirty days of the dangerous animal determination, at his or her own expense. The owner shall provide documentation of the sterilization upon completion. If the dog's owner had a valid dog license, such owner shall not receive a refund of the licensing fees paid for the altering or micro-chipping of the dog. Upon the renewal of the license, the amount will be changed to reflect the altering and micro-chipping of the dog.

(e) Any owner failing to provide documentation of the sterilization procedure as required by this Section shall be deemed guilty of a misdemeanor, and shall be required to immediately remove the dog from the City.

(f) The owner of any dog that has been determined to be dangerous shall be required to have a microchip, traceable to the dangerous dog and the current owner, inserted into the dog and copies of documentation of said procedure available for review by the animal control officer, Chief of Police, or their designee. If the dog's owner had a valid dog license, such owner shall not receive a refund of the licensing fees paid for the altering or micro-chipping of the dog. Upon the renewal of the license, the amount will be changed to reflect the altering and micro-chipping of the dog. Any owner of a dangerous dog who fails to comply with this provision shall be deemed guilty of a misdemeanor.

(g) It is unlawful for anyone having prior felony convictions defined in Articles 34, 35, 36, and 43 of Chapter 21, and Article 41 of Chapter 65 of the Kansas Statutes Annotated to possess, harbor, own or reside on any premises with a dangerous dog.

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

(1) harbor, keep or maintain a dangerous dog on property not owned by

such person without the written consent of the landowner; or

(2) sell, barter or give away to another person a dog which has been deemed dangerous; or

(3) Own, keep or harbor more than one dog which has been declared dangerous by this Article.

(i) Should a previously determined dangerous dog be found running at large in violation of this Article, and should it attack or inflict injury upon any person, the judge of the municipal court shall, in addition to any other penalty provided in this Chapter, order the dog destroyed; provided, however, the judge of the municipal court may, at his or her discretion, consider whether the attack or injury was sustained by a person who, at the time, was committing a criminal trespass or other wrongful act upon the premises of the owner of the dog, or was tormenting, abusing, or assaulting the dog, or has, in the past, been observed or reported to have tormented, aroused, or assaulted the dog or was committing or attempting to commit a crime. (Ord. 940, Sec. 4)

2-404. SIGNS REQUIRED. Upon determination by the animal control officer, Chief of Police, or their designee, the owner of a dangerous dog shall display in a prominent place at the entrance to his or her premises a clearly visible warning sign indicating there is a dangerous dog on the premises. A similar sign is required to be posted on the secure enclosure in which the animal is harbored. (Ord. 940, Sec. 4)

2-405. REGISTRATION AND INSURANCE. (a) The owner of a dangerous dog shall annually register the dangerous dog with the City on such forms as designated by the Chief of Police or designee, and shall have a microchip, traceable to the current owner of the dog, inserted into the dog. The owner shall complete an application and shall pay an addition $100 annual registration fee to the City of Maize in addition to normal annual registration fees and shall pay all costs associated with the microchip procedure. If the dog's owner had a valid dog license, such owner shall not receive a refund of the licensing fees paid for the altering or micro chipping of the dog. Upon the renewal of the license, the amount will be changed to reflect the altering and micro-chipping of the dog. The owner of a dangerous dog shall notify the City of Maize in writing a minimum of seven days prior to any change in the address of the owner of the dog or the location of the dangerous dog.

(b) The owner of a dangerous dog or approved Pit Bull designated as a service animal required to be registered under this Section shall be required to maintain liability insurance in the amount of $100,000 per occurrence for such dog against the potential injury or damage liabilities and hazards associated with the ownership or possession of such dog. The owner or person harboring a dangerous dog or Pit Bull shall file with the City of Maize a certificate of insurance reflecting the required minimum insurance. (Ord. 940, Sec. 4)

2-406. PIT BULL DOGS. (a) It is unlawful to own, keep or harbor a dog identified as a Pit Bull as defined by this Chapter; EXCEPT, a Pit Bull may be allowed within the City, after approval by the Chief of Police, if the dog is certified as a service dog that is trained to do work or perform tasks for people with disabilities recognized by the Americans with Disabilities Act and if verifiable certification/documentation declaring the dog as a service animal is provided in writing at the time the dog is registered with the City.

(b) If a Pit Bull is approved to be kept or harbored, the following is unlawful:

(i) to keep or harbor more than one approved Pit Bull.

(ii) to fail to have a Pit Bull spayed or neutered.

(iii) to permit the dog to be outside an approved secure enclosure unless the dog is restrained by a substantial chain or leash and under physical restraint by the registered owner who possesses sufficient strength for physical control of the animal.

(iv) to fail to securely muzzle and restrain the dog with a chain or leash not to exceed four feet in length. The muzzle shall be made and used in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal.

(v) to fail to have an approved Pit Bull micro-chipped, traceable to the dog and the current owner, by the microchip being inserted into the dog.

(vi) to fail to provide to the City copies of documentation of said procedure at the time the dog is registered with the City and to fail to have such documentation available for review by the animal control officer, Chief of Police, or their designee.

(c) Exemptions for Pit Bull dogs shall be reviewed and approved by the Chief of Police or designee on an annual basis at the time of registration renewal under the guidelines of this Section.

(d) For the purpose of this Section, verifiable certification/documentation of a service dog shall mean an identification card or letter with:

i. the legal name of the dog's user;

ii. the name, address and telephone number of the facility, school or trainer who trained the dog;

iii. what task(s) the dog has been trained to perform; an d

iv. a picture or digital photographic likeness of the dog user and the dog. If a card is used, the picture or digital photographic likeness shall be on the card. If a letter is used, the picture or digital photographic likeness shall either be printed as a part of the letter or be affixed to the letter.

v. The Chief of Police may require any other documentation or proof deemed necessary to verify the legitimate use of a Pit Bull as a service dog before allowing the dog to be registered, kept, maintained or harbored in the City.

(e) If the animal is a Pit Bull dog, the owner shall be given five days from receipt of notice to safely remove the dog from the City. After five days from receipt of notice and the failure or refusal of the owner to remove the animal, any animal control officer or law enforcement officer shall forthwith cause the animal to be seized and impounded.

(f) It is unlawful for the owner of a Pit Bull to:

(1) represent that such person has the right to be accompanied by a service dog, unless such person has the right to be accompanied by such dog pursuant to this Article; or

(2) represent that such person has a disability for the purpose of acquiring a service dog unless such person has such disability; or

(3) misrepresent or provide false training or certification documents that such dog is trained as a service dog. (Ord. 940, Sec. 4)

ARTICLE 5.
BEEKEEPING

2-501. LEGISLATIVE FINDINGS. The governing body finds that there is a need to regulate and set minimum standards for the keeping of bees within the corporate limits of the city to protect the public health, safety, and welfare of the residents of the city. (Ord. 945)

2-502. KEEPING OF BEES. It shall be unlawful for any person to place, establish, or maintain any hive, stand, box, or apiary or keep any bees in or upon any premises within the city unless the bees are kept in accordance with the provisions of this chapter. (Ord. 945)

2-503. KEEPING OF A HIVE, STAND, BOX, OR APIARY. No hive, stand, or apiary shall be placed or kept:

(a) Closer than 25 feet to the property line of adjoining residential property if a house or other building used for residential purposes is located on such property;

(b) Closer than 75 feet to any house or other building used for residential purposes other than the residence of the keeper of such bees without first obtaining written permission of such land, which permission may be revoked at any time;

(c) Closer than 100 feet to the exterior line of the traveled portion of a public street;

(d) Upon land not owned or possessed by the keeper of such bees without first obtaining written permission to do so from the owner or person lawfully in possession of such land, which permission may be revoked at any time. (Ord. 945)

2-504. MULTIPLE NUMBER OF BEEHIVES. No more than three beehives shall be placed or kept in a location which is between 75 feet and 600 feet from a house or other building used for residential purposes other than the residence of the keeper of such bees. (Ord. 945)

2-505. SUBSEQUENT DEVELOPMENT OF ADJACENT PROPERTIES. Provided that should adjacent property be later developed, or residential structures located closer than the distances herein prescribed, the keeper shall move such hives, stands, boxes, or apiaries to comply with these regulations. (Ord. 945)

2-506. OWNER∗S HIVES ON OTHER PROPERTIES. Every person owning a hive, stand, box, or apiary located on premises other than where he or she resides shall identify such hive, stand, box or apiary by a sign or other prominent marking stating in letters at least one inch high on a contrasting background the name, address, and phone number of the owner of such equipment. (Ord. 945)

2-507. EXEMPTIONS. Nothing in these regulations shall be deemed or construed to prohibit the keeping of bees within a school or university building for the purpose of study or observation, or within a physician's office or laboratory for the purpose of medical research, treatment, or other scientific purposes. (Ord. 945)

2-608. VIOLATIONS AND PENALTY. The violation of any provision of section 2-603:607 is a public offense and any person convicted thereof shall be punished as provided in the Uniform Public Offense Code as an unclassified misdemeanor and prosecuted through the municipal court. Each day that any violation of these sections shall continue shall constitute a separate offense. (Ord. 945)

ARTICLE 7. ENFORCEMENT; PENALTIES

2-701. ENFORCEMENT OF ORDINANCE. It is made the duty of the animal control officer, or anyone having the authority of animal control officer, including but not limited to law enforcement officers, to enforce the terms and provisions of this article, and the city administrator or the police chief may appoint by and with the consent of the governing body some suitable person to be known as an animal control officer, whose duties it shall be to assist in the enforcement of this article and to work under the immediate supervision and direction of the police department. Anyone having the authority of an animal control officer is given the authority to seize any animal found outside the city limits when he or she has reasonable grounds to believe the animal committed any act within the city which is prohibited by the provisions of this article or which subjects the animal to seizure if found within the city. Any private person may, upon signed complaint, bring charges against any owner of a dog, cat, or other warm-blooded animal for the violation of any of the provisions of this article. (Ord. 540, Sec. 7)

2-702. LAW ENFORCEMENT CANINES. The provisions of this Article shall not apply to law enforcement canines owned, kept and maintained by any commissioned police officer, and certified as trained for law enforcement purposes nor shall the provisions of this Article apply to law enforcement canines brought into the City at the request of the police department for assistance in law enforcement purposes, provided that all law enforcement canines shall be inoculated against rabies as required by Section 2-201. (Ord. 940, Sec 6)

2-703. GENERAL PENALTIES FOR VIOLATIONS. A person violating any provision of this Article is guilty of a misdemeanor and shall be punished by a fine of not more than $500 plus any applicable court costs or by imprisonment of not more than six months or both such fine and imprisonment, provided the minimum fine for the following:

Violation	**Fine**
Violation for Running at Large	
1st offense within 12-month period	$50
2nd offense within 12-month period	$100
3rd offense within 12-month period	$200/court appearance
Dog Bite Violations	
1st offense within 12-month period	$150/court appearance
2nd offense within 12-month period	$250/court appearance
3rd offense within 12-month period	$500/court appearance
Failure to confine rabies suspect animal	$250/court appearance
Failure to obtain dog license	$50
Failure to vaccinate dog or cat for rabies	$35
No identification tags	$35

(Ord. 940, Sec. 7)

2-704. SEVERABILITY. If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this article or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not effect the validity or effectiveness of the remaining portions of this chapter or any part thereof. (Ord. 540, Sec. 7)

2-705. RESTITUTION. (a) A defendant convicted of a violation of this Article may be ordered to make full restitution for damages incidental and consequential expenses incurred, which arise out of or are related to the offense, provided that, if more than one animal was involved and the acts or actions of either the animals and/or the owner of both animals were in violation of any Sections of this Chapter, restitution shall not be ordered.

(b) Restitution for a conviction under this Article includes, but is not limited to:

(1) the value of the replacement of an incapacitated or deceased animal, the training of a replacement animal if said animal was a guide dog or service animal, or retraining of the affected guide dog or service animal and related veterinary and care expenses; and

(2) medical expenses of the animal user, training of the animal user, if said animal was a guide dog or service animal, and compensation for wages or earned income lost by a guide dog or service animal user; and

(3) the value of the replacement or repair of any property damaged or destroyed.

(c) This Article does not affect civil remedies available for conduct punishable under this Article. Restitution paid pursuant to this Article must be set off against damages awarded in a civil action arising out of the same conduct that resulted in the restitution payment. (Ord. 940, Sec.8)

CHAPTER III. BEVERAGES

ARTICLE 1. GENERAL PROVISIONS

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

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

(b) Alcoholic Liquor means alcohol, spirits, wine, beer and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed as a beverage by a human being, but shall not include any cereal malt beverage. (Ord. 703)

(c) Beer means a beverage, containing more than 3.2% alcohol by weight, obtained by alcoholic fermentation of an infusion or concoction of barley, or other grain, malt, and hops in water and includes, beer, ale, stout, lager beer, porter, and similar beverages having such alcoholic content.

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

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

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

(g) 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.

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

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

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

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

(l) Original Package means any bottle, flask, jug, can, cask, barrel, keg, hogshead or other receptacle or container whatsoever, used, corked or capped, sealed and labeled by the manufacturer of alcoholic liquor or cereal malt beverage, to contain or to convey alcoholic liquor or cereal malt beverage. Original package does not include a sleeve. (Ord. 703)

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

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

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

(p) Wine means any alcoholic beverage obtained by the normal alcoholic fermentation of the juice of sound, ripe grapes, fruits, berries, or other agricultural products, including such beverages containing added alcohol or spirits or containing sugar added for the purpose of correcting natural deficiencies.
(Ord. 571, Sec. 1; Code 2003)

3-102. RESTRICTION ON LOCATION. (a) No alcoholic liquor shall be sold or served by a person holding a license or permit from the city whose place of business or other premises are located within 300 feet of any (church, school, nursing home, library, hospital said distance to be measured from the nearest property line of such (church, school, nursing home, library, hospital, or to the nearest portion of the building occupied by the premises.

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

(c) No license or permit shall be issued for the sale of alcoholic liquor if the building or use does not meet the zoning ordinance requirements of the city or conflicts with other city laws, including building and health codes.
(Ord. 324, Sec. 2(b)(2); Code 2003)

3-103. MINORS ON PREMISES. (a) It shall be unlawful for any person under the age of 21 years to remain on any premises where the sale of alcoholic liquor is licensed for on-premises consumption, or where a caterer or temporary permit holder is serving alcoholic liquor.

(b) It shall be unlawful for the operator, person in charge or licensee of any premises licensed for on-premises consumption of alcoholic liquor or a caterer or temporary permit holder who is serving alcoholic liquor to permit any person under the age of 21 years to remain on the premises.

(c) This section shall not apply if the person under the age of 21 years is accompanied by his or her parent or guardian, or if the licensed or permitted

premises derives not more than 30% of its gross receipts in each calendar year from the sale of alcoholic liquor for on-premises consumption.
(Code 2003)

3-104. CONSUMPTION OF ALCOHOLIC LIQUOR ON CERTAIN PUBLIC PROPERTY. (a) Exemptions. The city, by authority granted at K.S.A. 41-719(d), hereby exempts that portion of City Hall, 10100 Grady Avenue, Maize, Kansas, that is subleased to the Maize Recreation Commission that is designated as the "multipurpose room" (the "Multipurpose Room") from the provisions of K.S.A. 41-719(c) that prohibits persons from drinking or consuming alcoholic liquor on public property.

(b) In lieu of provisions contained in K.S.A. 41-719(c) that prohibit the drinking and consumption of alcoholic liquor on public property, the following shall apply within the Multipurpose Room. The drinking and consumption of alcoholic liquor shall be allowed within the Multipurpose Room, subject to the following:

(1) Notice of an event where alcoholic liquor is to be drunk and consumed in the Multipurpose Room, that contains the date, time the event is to be held, type of event, and other information as required by the Chief of Police and signed by the sponsor of the event shall be submitted to the Chief of Police at least three (3) days in advance of the day such an event is scheduled to be held.

(2) Applicable state laws and regulations and City ordinances shall be complied with during times that alcoholic liquor is being drunk and consumed in the Multipurpose Room.
(Ord. 809)

3-105. 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 upon any street, public thoroughfare, public parking lot or any privately owned parking area made available to the public generally, within any parked or driven motor vehicle situated in any of the aforesaid places or upon any property owned by the state or any governmental subdivision thereof unless such property is leased to others under K.S.A. 12-1740 et seq. if the property is being used for hotel or motel purposes or purposes incidental thereto or is owned or operated by an airport authority created pursuant to Chapter 27 of the Kansas Statutes Annotated. (K.S.A. 41-719; Ord. 324, Sec. IV; Code 2003)

3-106. OPEN CONTAINER. (a) It shall be unlawful for any person to transport in any vehicle upon a highway or street any cereal malt beverage or alcoholic beverage unless such beverage is:

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

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

(3) In the exclusive possession of a passenger in a vehicle which is a recreational vehicle as defined by K.S.A. 75-1212 or a bus as defined by K.S.A. 8-1406, who is not in the driving compartment of such vehicle or who is in a portion of such vehicle from which the driver is not directly accessible.

(b) As used in this section highway and street have meanings provided by K.S.A. 8-1424 and K.S.A. 8-1473 and amendments thereto.
(K.S.A. 8-1599; Code 2003)

3-107. CONSUMPTION WHILE DRIVING. It shall be unlawful for any person to consume any cereal malt beverage or alcoholic beverage while operating any vehicle upon any street or highway. (K.S.A. 41-719, 41-2720; Code 2003)

3-108. 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 his or her card for purposes relating to the sale, purchase or consumption of either cereal malt beverage or alcoholic liquor.

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

(4) Photograph, photostat, duplicate or in any way reproduce any identification 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.

(2) Lend any identification card to or knowingly permit the use of any identification card by any person under 21 years of age for use in the sale, purchase or consumption of any cereal malt beverage.
(Code 2003)

3-109. UNDERAGE PURCHASER. (a) It shall be unlawful for any person under 21 years of age to purchase or attempt to purchase any cereal malt beverage.

(b) It shall be unlawful for any person under 21 years of age to purchase or attempt to purchase any alcoholic liquor.
(K.S.A. Supp. 41-727; Code 2003)

3-110. (a) DEFINITIONS. As used in this Section 3-110:

(1) "Alcoholic Liquor" means alcohol, spirits, wine, beer, and every liquid or solid, patent 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;

(2) "Cereal Malt Beverage" means any fermented but undistilled liquor brewed or made from malt or from a mixture of malt or malt substitute, but does not include any such liquor which is more than 3.2% alcohol by weight;

(3) "City" means the City of Maize, Kansas.

(4) "Original Package" means any bottle, flask, jug, can, cask, barrel, keg, hogshead or other receptacle or container whatsoever, used, corked or capped, sealed and labeled by the manufacturer of alcoholic liquor or cereal malt beverage, to contain or convey alcoholic liquor or cereal malt beverage; original package does not include a sleeve.

(b) TIME OF SALE FOR ALCOHOLIC LIQUOR IN THE ORIGINAL PACKAGE. No person shall sell at retain within the corporate limits of the City alcoholic liquor in the original package:

(1) on Sunday before 12:00 noon or after 8:00 p.m.;

(2) on Easter Sunday, Thanksgiving Day, or Christmas Day;

(3) before 9:00 a.m. or after 11:00 p.m. on any day other than a Sunday when the sale of alcoholic liquor is permitted.

(c) SALE OF CEREAL MALT BEVERAGE IN THE ORIGINAL PACKAGE. No person shall sell at retail within the corporate limits of the City, cereal malt beverage in the original package:

(1) on Sunday before 12:00 noon or after 8:00 p.m.;

(2) on Easter Sunday;

(3) between the hours of 12:00 midnight and 6:00 a.m. on any day other than a Sunday when the sale of cereal malt beverage is permitted.

(d) PENALTIES. Any person violating the provisions of this Section 3-110 shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars ($500.00), or by imprisonment in the county jail for not more than one (1) year, or by both such fine and imprisonment.

(Ord. 703)

ARTICLE 2. CEREAL MALT BEVERAGES

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

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

(K.S.A. 41-2702; Ord. 392, Sec. 3; Ord. 407, Sec. 3; Code 2003)

3-202. APPLICATION. Any person desiring a license shall make an application to the governing body of the city and accompany the application by the required license fee for each place of business for which the person desires the license. The application shall be verified, and upon a form prepared by the attorney general of the State of Kansas, and shall contain:

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

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

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

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

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

(f) Each application for a general retailer's license shall be accompanied by a certificate from the county health officer certifying that he or she has inspected the premises to be licensed and that the same comply with the provisions of chapter 8 of this code.

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

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 he or she is qualified as a licensee under the provisions of this chapter. The chief shall report to the city administrator 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. (Ord. 392, Sec. 8; Ord. 407, Sec. 4; Code 2003)

3-202A. LICENSE APPLICATION PROCEDURES. (a) All applications for a new and renewed cereal malt beverage license shall be submitted to the city clerk 10 days in advance of the governing body meeting at which they will be considered.

(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 Sedgwick County 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 Sedgwick County fire department and health department will inspect the premises in accord with chapters 7 and 8 of this code. 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 10 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.
(Ord. 392, Sec. 8; Ord. 407, Sec. 5; Code 2003)

3-203. LICENSE 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.
(Ord. 392, Sec. 9; Ord. 407; Sec. 6; Code 2003)

3-204. LICENSE TO BE POSTED. Each license shall be posted in a conspicuous place in the place of business for which the license is issued. (Ord. 392, Sec. 5; Code 2003)

3-205. LICENSE, DISQUALIFICATION. No license shall be issued to:

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

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

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

(d) A person who, within two years immediately preceding the date of making application, has been convicted of a felony or any crime involving moral turpitude, or 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.

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

(f) A corporation if any manager, officer or director thereof or any stockholder owning in the aggregate more than 25% of the stock of such corporation would be ineligible to receive a license hereunder for any reason other than nonresidence within the city or county.

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

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

(i) A person whose spouse would be ineligible to receive a retailer's license for any reason other than citizenship, retailer residency requirements or age, except that this subsection (i) shall not apply in determining eligibility for a renewal license.
(Ord. 392, Sec. 9; Ord. 407, Sec. 8; Code 2003)

3-206. 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 300-foot radius of any church, school or library.

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

(d) The distance limitation of subsection (b) above 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.
(K.S.A. 41-2704; Ord. 392, Sec. 9; Ord. 407, Sec. 9; Code 2003)

3-207. LICENSE FEE. The rules and regulations regarding license fees shall be as follows:

(a) General Retailer -- for each place of business selling cereal malt beverages at retail, $200 per calendar year.

(b) 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, $50 per calendar year.

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. (K.S.A. 41-2702; Ord. 463; Code 2003)

3-208. SUSPENSION OF LICENSE. The chief of police, upon five days' written notice, shall have the authority to suspend such license for a period not to exceed 30 days, for any violation of the provisions of this chapter or other laws pertaining to cereal malt beverages, which violation does not in his or her judgment justify a recommendation of revocation. The licensee may appeal such order of suspension to the governing body within seven days from the date of such order. (Ord. 392, Sec. 6; Ord. 407, Sec. 11; Code 2003)

3-209. LICENSE SUSPENSION/REVOCATION BY GOVERNING BODY. The governing body of the city, upon five days' written notice, to a person holding a license to sell cereal malt beverages shall permanently revoke or cause to be suspended for a period of not more than 30 days such license for any of the following reasons:

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

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

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

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

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

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

(g) For the employment of any person under the age established by the State of Kansas for employment involving dispensing cereal malt beverages;

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

(i) For the sale or possession of, or for permitting the use or consumption of alcoholic liquor within or upon any premise licensed under this article;

(j) The nonpayment of any license fees;

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

(l) The provisions of subsections (f) and (i) shall not apply if such place of business is also currently licensed as a private club.

(K.S.A. 41-2708; Ord. 392; Ord. 407, Sec. 12; Code 2003)

3-210. SAME; APPEAL. The licensee, within 20 days after the order of the governing body revoking any license, may appeal to the district court of Sedgwick County and the district court shall proceed to hear such appeal as though such court had original jurisdiction in the matter. Any appeal taken under this section shall not suspend the order of revocation of the license of any licensee, nor shall any new license be issued to such person or any person acting for or on his or her behalf, for a period of six months thereafter. (K.S.A. 41-2708; Ord. 407, Sec. 13; Code 2003)

3-211. CHANGE OF LOCATION. If a licensee desires to change the location of his or her place of business, he or she 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 of $25. 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. (Ord. 407, Sec. 14; Code 2003)

3-212. WHOLESALERS AND/OR DISTRIBUTORS. It shall be unlawful for any wholesaler and/or distributor, his, her or its agents or employees, to sell and/or deliver cereal malt beverages within the city, to persons authorized under this article to sell the same within this city unless such wholesaler and/or distributor has first secured a license from the director of revenue, state commission of revenue and taxation of the State of Kansas authorizing such sales. (K.S.A. 41-307:307a; Ord. 407, Sec. 15; Code 2003)

3-213. BUSINESS REGULATIONS. It shall be the duty of every licensee to observe the following regulations.

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

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

(c) Except as otherwise provided by subsection (d) herein, no cereal malt beverage may be sold on premises licensed for the consumption of cereal malt beverages on the premises between the hours of 12:00 a.m. (midnight) and 6:00 a.m., or consumed on such premises between the hours of 12:30 a.m. and 6:00 a.m., or on Sunday, except in a place of business which is licensed to sell cereal malt beverages for consumption on the premises which derives not less than thirty percent (30%) of its gross income from the sale of food for consumption on the licensed premises.

(d) Cereal malt beverages may be sold on premises at any time alcoholic liquor is allowed by law to be served on the premises of establishments that are licensed to sell for consumption on the premises cereal malt beverages and alcoholic liquor.

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

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

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

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

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

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

(k) No licensee or agent or employee of the licensee shall employ any person under twenty-one (21) years of age in dispensing cereal malt beverages. No licensee shall employ any person who has been judged guilty of a felony. (Ord. 706, Sec. 1)

3-214. 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:

(a) 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/females pubic hair, anus, buttocks or genitals;

(b) 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;

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

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

(1) Sexual intercourse, masturbation, sodomy, or any other sexual act which is prohibited by law; or

(2) Touching, caressing or fondling such persons' breasts, buttocks, anus or genitals.

(e) 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 paragraph (d) of this section.

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

(1) Acts or simulated acts of sexual intercourse, masturbation, sodomy, or any sexual act which is prohibited by law;

(2) The touching, caressing or fondling of the buttocks, anus, genitals or the female breasts;

(3) Scenes in which a person displays the buttocks, anus, genitals or the female breasts.

(g) 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 his or her employee or 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.

(Code 2003)

3-215. 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 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 at all times shall be provided. 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. (Ord. 392, Sec. 7; Code 2003)

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

(b) This section shall not apply if the person under 21 years of age is an employee of the licensed establishment, or is accompanied by his or her parent or guardian, or if the licensed establishment derives not more than 30% of its gross

receipts in each calendar year from the sale of cereal malt beverages for on-premises consumption.
(Ord. 392, Sec. 12; Code 2003)

ARTICLE 3. ALCOHOLIC LIQUOR

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

(b) The holder of a license for the 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 3-302 and the tax shall be received and a receipt shall be issued for the period covered by the state license.
(Ord. 324, Sec. 2; Code 2003)

3-302. OCCUPATIONAL TAX. There is hereby levied an annual occupation tax of $300 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. (Ord. 324, Sec. 8; Code 2003)

3-303. POSTING OF RECEIPT. Every licensee under this article shall cause the city alcoholic liquor retailer'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. (Ord. 324, Sec. 8; Code 2003)

3-304. REPEALED. (Ord. 703)

3-305. BUSINESS REGULATIONS. It shall be unlawful for a retailer of alcoholic liquor to:

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

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

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

(d) Furnish any entertainment in his or her premises or permit any pinball machine or game of skill or chance to be located in or on the premises; or

(e) Have in his or her possession for sale at retail any bottles, cask, or other containers containing alcoholic liquor, except in the original package.

(f) 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 2003)

3-306. 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 300 feet from the nearest property line of any existing hospital, school, church or library. (K.S.A. 41-710; Ord. 324, Sec. 2; Code 2003)

ARTICLE 4. PRIVATE CLUBS

3-401. LICENSE REQUIRED. It shall be unlawful for any person granted a private club license by the State of Kansas 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 2003)

3-402. LICENSE FEE. (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 $250 and the city license fee for a Class B club shall be $250.

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

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

(d) Every licensee shall cause the 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 2003)

3-403. BUSINESS REGULATIONS. (a) No club licensed hereunder shall allow the serving, mixing or consumption of alcoholic liquor on its premises between the hours of 2:00 a.m. and 9:00 a.m. on any day.

(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.
(K.S.A. Supp. 41-2614; Code 2003)

ARTICLE 5. DRINKING ESTABLISHMENTS

3-501. LICENSE REQUIRED. It shall be unlawful for any person granted a drinking establishment license by the State of Kansas to sell or serve any alcoholic liquor authorized by such license within the city without first obtaining a city license from the city clerk. (Code 2003)

3-502. LICENSE FEE. (a) There is hereby levied an annual license fee in the amount of $250 on each drinking establishment located in the city which has a drinking establishment license issued by the state director of alcoholic beverage

control, which fee shall be paid before business is begun under an original state license and within five days after any renewal of a state license.

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

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

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

(Code 2003)

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

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

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

(K.S.A. Supp. 41-2614; Code 2003)

ARTICLE 6. CATERERS

3-601. LICENSE REQUIRED. It shall be unlawful for any person licensed by the State of Kansas as a caterer to sell alcoholic liquor by the drink, to sell or serve any liquor by the drink within the city without obtaining a local caterer's license from the city clerk. (Code 2003)

3-602. LICENSE FEE. (a) There is hereby levied an annual license fee in the amount of $250 on each caterer doing business in the city who has a caterer's license issued by the state director of alcoholic beverage control, which fee shall be paid before business is begun under an original state license and within five days after any renewal of a state license.

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

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

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

(Code 2003)

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

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

(K.S.A. Supp. 41-2614; Code 2003)

3-604. NOTICE TO CHIEF OF POLICE. Prior to any event at which a caterer will sell or serve alcoholic liquor by the individual drink, the caterer shall provide written notice to the chief of police at least five days prior to the event if the event will take place within the city. The notice shall contain the location, name of the group sponsoring the event, and the exact date and times the caterer will be serving. (Code 2003)

ARTICLE 7. TEMPORARY PERMITS

3-701. PERMIT REQUIRED. It shall be unlawful for any person granted a temporary permit by the State of Kansas to sell or serve any alcoholic liquor within the city without first obtaining a local temporary permit from the city clerk. (Code 2003)

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

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

(Code 2003)

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

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

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

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

(Code 2003)

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

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

(Code 2003)

CHAPTER IV. BUILDINGS AND CONSTRUCTION

ARTICLE 1. BUILDING CODE

4-101. JURISDICTION; PROSECUTORIAL DECISIONS; COLLECTION OF FINES. Pursuant to the Interlocal Agreement for code enforcement as amended, the City of Maize, Sedgwick County, Kansas:

(a) Jurisdiction of all matters addressed in the Wichita-Sedgwick County Building and Trade Code is conferred to Sedgwick County, Kansas, through the consolidated entity, the Metropolitan Area Building & Construction Department.

(b) The City of Maize, Sedgwick County, Kansas, defers all prosecutorial decisions of violations of the provisions of the Wichita-Sedgwick County Uniform Building and Trade Code to Sedgwick County, Kansas.

(c) The City of Maize, Sedgwick County, Kansas, will make no claim or demand for any fines collected by the court as a result of enforcement activities within the City of Maize, Sedgwick County, Kansas, that are under the Wichita-Sedgwick County Uniform Building and Trade Code.
(Ord. 862)

4-102. ADOPTION BY REFERENCE OF THE WICHITA-SEDGWICK COUNTY UNIFORM BUILDING AND TRADE CODE. The Wichita-Sedgwick County Uniform Building and Trade Code, as published by Sedgwick County, Kansas, 525 North Main, Wichita, Kansas 67202, is adopted and incorporated into the Code of the City of Maize, Sedgwick County, Kansas, by reference. Not less than one (1) copy of the Wichita-Sedgwick County Uniform Building and Trade Code shall be on file with the City of Maize, Sedgwick County, Kansas, City Clerk. The copy on file with the City Clerk of the City shall be marked or stamped “Official Copy of the Wichita-Sedgwick County Uniform Building and Trade Code, as incorporated by Ordinance No. 862.”
(Ord. 862)

4-103. REPEALED. (Ord. 862, Sec. 3)

4-104. REPEALED. (Ord. 862, Sec. 3)

4-105. REPEALED. (Ord. 862, Sec. 3)

4-106. REPEALED. (Ord. 862, Sec. 3)

4-107. REPEALED. (Ord. 862, Sec. 3)

4-108. REPEALED. (Ord. 862, Sec. 3)

4-109. REPEALED. (Ord. 862, Sec. 3)

4-110. REPEALED. (Ord. 862, Sec. 3)

4-111. REPEALED. (Ord. 862, Sec. 3)

4-112. REPEALED. (Ord. 862, Sec. 3)

4-113. REPEALED. (Ord. 862, Sec. 3)

4-114. REPEALED. (Ord. 862, Sec. 3)

4-115. REPEALED. (Ord. 862, Sec. 3)

4-116. REPEALED. (Ord. 862, Sec. 3)

4-117. REPEALED. (Ord. 862, Sec. 3)

4-118. REPEALED. (Ord. 862, Sec. 3)

4-119. REPEALED. (Ord. 862, Sec. 3)

4-120. REPEALED. (Ord. 862, Sec. 3)

ARTICLE 2. ELECTRICAL CODE

4-202. REPEALED. (Ord. 801, Sec. 2)

ARTICLE 3. PLUMBING AND GAS-FITTING CODE

4-301. REPEALED. (Ord. 801, Sec. 2)

4-302. REPEALED. (Ord. 801, Sec. 2)

ARTICLE 4. MOVING BUILDINGS

4-401. BUILDING OFFICIAL; AUTHORITY. The city administrator or his or her authorized designee shall be responsible for the administration and enforcement of this article and appointment of an inspector. (Code 2003)

4-402. PERMIT REQUIRED. No person, firm or corporation shall move, haul, or transport any house, building, derrick, or other structure of the height when loaded for movement of 16 feet or more from the surface of the highway, road, street or alley, or a width of eight feet or more or which cannot be moved at a speed of four

miles per hour or faster, upon, across or over any street, alley or sidewalk in this city without first obtaining a permit therefor. (K.S.A. 17-1914; Code 2003)

4-403. SAME: APPLICATION FOR PERMIT. All applications for permits required under the provisions of this article shall be made in writing to the city clerk specifying the day and hour said moving is to commence and the route through the city's streets over which the house, building, derrick or other structure shall be moved and stating whether it will be necessary to cut and move, raise, or in any way interfere with any wires, cables or other aerial equipment of any public or municipally-owned utility, and if so, the application shall also state the name of the public or municipally-owned utility, and the time and location that the applicant's moving operations shall necessitate the cutting, moving, raising or otherwise interfering with such aerial facilities. (K.S.A. 17-1915; Code 2003)

4-404. SAME; BOND, INSURANCE REQUIRED. (a) It shall be the duty of any person at the time of making application for a permit as provided in this article to give a good and sufficient surety bond to the city, to be approved by the governing body, indemnifying the city against any loss or damage resulting from the failure of any such person to comply with the provisions of this article or for any damage or injury caused in moving any such house or structure. The bond herein shall be in the sum of $5,000, or cash may be deposited in lieu of such surety bond.

(b) A public liability insurance policy issued by an insurance company authorized to do business in the State of Kansas, in the amount of $100,000 per person, $300,000 per accident as to personal injury, and $50,000 property damage may be permitted in lieu of a bond.
(Code 2003)

4-405. SAME; FEE. Before any permit to move any house or structure is given under the provisions of this article, the applicant shall pay a fee of not less than $75 to the city clerk; plus the additional cost for the time for any city crews involved in such moving. (Code 2003)

4-406. ROUTE; DUTIES OF BUILDING OFFICIAL. The city clerk shall, upon filing of the above application, refer the same to the chief building official or his or her authorized designee to check the proposed route and determine if it is practical to move such house or other structure over the route proposed. If it shall appear that such route is not practical and another route may be used equally well with less danger to street and travel, then he or she may designate such other route as the one to be used and shall notify the applicant of the same. The building official may also require the planking of any street, bridge or culvert or any part thereof to prevent damage thereto. It shall also be the duty of the chief building official or his or her authorized designee to inspect the progress of moving any house or other structure to see that the same is being moved in accordance with the provisions of this article. (Code 2003)

4-407. NOTICE TO OWNERS. (a) Upon issuance of a moving permit the applicant shall give not less than 15 days written notice to any person owning or operating any wires, cables or other aerial equipment along the proposed route of the intent to move the structure, giving the time and location that the applicants moving

operation shall necessitate the cutting, moving, raising or interfering of any wires, cables or other aerial equipment.

(b) The notice provision of subsection (a) shall not apply where the person owning or operating any wires, cables or other aerial equipment has waived their right to advance notice.

(c) Should the moving operation be delayed, the applicant shall give the owner or his or her agent not less than 24 hours advance notice of the actual operation.

(K.S.A. 17-1916; Code 2003)

4-408. DUTY OF OWNERS. (a) It shall be the duty of the person or the city owning or operating such poles or wires after service of notice as provided herein, to furnish competent lineman or workmen to remove such poles, or raise or cut such wires as will be necessary to facilitate the moving of such house or structure. The necessary expense which is incurred thereby shall be paid by the holder of the moving permit.

(b) The owner of any wires, cables or other aerial equipment, after service of notice as provided in section 4-407, shall be liable to the permit holder for damages in an amount not to exceed $100 per day for each day the owner shall fail or refuse to accommodate the permit holder's moving operations.

(K.S.A. 17-1917; Code 2003)

4-409. INTERFERING WITH POLES; WIRES. It shall be unlawful for any person engaged in moving any house or other structure to raise, cut or in any way interfere with any wires or poles bearing wires or any other aerial equipment. (K.S.A. 17-1918; Code 2003)

4-410. DISPLAY OF LANTERNS. It shall be the duty of any person moving any of the structures mentioned in this article upon or across any street, alley or sidewalk or other public place, in this city, to display red lanterns thereon in such a manner as to show the extreme height and width thereof from sunset to sunrise. (Code 2003)

ARTICLE 5. DANGEROUS AND UNFIT STRUCTURES

4-501. 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 article. (K.S.A. 12-1751; Code 2003)

4-502. DEFINITIONS. For the purpose of this article, the following words and terms shall have the following meanings:

(a) Enforcing officer means the public officer or his or her authorized representative.

(b) 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.
(K.S.A. 12-1750; Code 2003)

4-503. ENFORCING OFFICER; DUTIES. The enforcing officer is hereby authorized to exercise such powers as may be necessary to carry out the purposes of this article, including the following:

(a) Inspect any structure which appears to be unsafe, dangerous or unfit for human habitation;

(b) 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;

(c) Report all structures which he or she believes to be dangerous, unsafe or unfit for human habitation to the governing body;

(d) Receive petitions as provided in this article.
(Code 2003)

4-504. 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 his or her own motion that any structure is dangerous, unsafe or unfit for human habitation, he or she shall, if his or her preliminary investigation discloses a basis for such charges, report such findings to the governing body. (Code 2003)

4-505. SAME; NOTICE. The governing body upon receiving a report as provided in section 4-504 shall by resolution fix a time and place at which the owner, the owner's agent, any lienholder 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. (K.S.A. 12-1752; Code 2003)

4-506. SAME; PUBLICATION. (a) 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.

(b) A copy of the resolution shall be mailed by certified mail within three days after its first publication to each owner, agent, lienholder and occupant at the last known place of residence and shall be marked "deliver to addressee only."
(K.S.A. 12-1752; Code 2003)

4-507. 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, lienholders 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. (Code 2003)

4-508. 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. (Code 2003)

4-509. SAME; FAILURE TO COMPLY. (a) 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.

(b) 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.
(Code 2003)

4-510. SAME; MAKE SITE SAFE. Upon removal of any structure, the owner shall fill any basement or other excavation 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. (Code 2003)

4-511. ASSESSMENT OF COSTS. (a) The cost to 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.

(b) The city shall give notice to the owner of the structure by restricted mail of the cost of removing the structure and making the premises safe and secure. The notice shall also state that payment of the cost is due and payable within 30 days following receipt of the notice.

(c) 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 to recover the costs shall be paid to the owner of the premises upon which the structure was located.

(d) If the proceeds of the sale of salvage is insufficient to recover the 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 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 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. 12-1755; Code 2003)

4-512. 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, lienholders and occupants. The cost of any action under this section shall be assessed against the property as provided in section 4-511. (K.S.A. 12-1756; Code 2003)

4-513. APPEALS FROM ORDER. Any person affected by an order issued by the governing body under this article 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. (Code 2003)

4-514. SCOPE 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 charter or its ordinances or regulations, nor to prevent or punish violations thereof; and the powers conferred by this article shall be in addition to and supplemental to the powers conferred by the constitution, any other law or ordinance. Nothing in this article shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise or to exercise those powers granted specifically by K.S.A. 12-1750:1756. (Code 2003)

CHAPTER V. BUSINESS REGULATIONS

ARTICLE 1. GENERAL PROVISIONS

5-101. LICENSE REQUIRED. It shall be unlawful for any person, firm or corporation, either as principal or agent or employee, to conduct, pursue carry on or operate any calling, trade, profession or occupation in the city without first paying the license fee prescribed and procuring such a license from the city clerk whenever the procuring of the license is required by the city. (Code 2003)

5-102. APPLICATION FOR LICENSE. Every person, firm or corporation desiring to do business in the city shall apply to the city clerk for a license to operate such business, and in the case of new licenses, shall appear before the governing body before the commencement of business and issuance of the license. Upon approval by the governing body, the city clerk shall issue to the applicant a license which shall be signed by the city clerk. It shall be the duty of the city clerk to pay over the amount so collected on each license issued, to the city treasurer of the city. (Code 2003)

5-103. NOT ASSIGNABLE OR TRANSFERABLE. No license granted by the city shall be assignable or transferable; nor shall such license authorize any person to do business or act under it but the person named therein, nor at more than one place. There shall be no refunds except as specifically provided. (Code 2003)

5-104. LICENSE PERIOD; DURATION. Unless otherwise provided, licenses shall commence and endure from January 1 and expire on December 31 of the same year, except that all semi-annual licenses issued as provided in this chapter shall expire on the 30th day of June or the 31st day of December, next following the date of their issuance. (Code 2003)

5-105. EXEMPTION OF FARMERS. No producer or grower, or his or her agents or employees, selling in the city, farm or garden products or fruits grown by him or her in the state shall be required to pay any license fee or occupation tax imposed by any law of this city, and he or she, his or her agents or employees, are hereby exempt from the payment of any such fees or taxes, or the securing of a license. (K.S.A. 12-1617; Code 2003)

5-106. LICENSE FEES. Unless otherwise provided, the annual license fee for each occupation, business, or profession shall be as shown in the following schedule: (Reserved)

5-107. SAME; WHEN PAYABLE; TIME PERIOD. (a) All license fees shall be due and payable before the commencement of a trade, occupation, business or profession for which license fees are required.

(b) No license shall be issued until the fee is paid.

(c) Licenses shall be renewed on or before the expiration date of the current licenses.

(d) If the license prescribed is for an annual, quarterly, monthly, weekly or daily period, the license shall not be issued for any part or fraction of the year, quarter, month, week or day, respectively.

(e) The license for a day shall expire at midnight.
(Code 2003)

5-108. PAYMENT OF FEES; RECEIPT. The city clerk shall, upon payment of any license fee specified, give a receipt therefor stating the amount paid, the nature of the licenses issued, for what time, and to whom issued, and if possible, the exact location where the business is to be carried on, and the kind of business. (Code 2003)

5-109. CONTENTS OF LICENSE. Unless otherwise provided all licenses shall be dated on the date of their issue, and shall state the name of the licensee, the kind of business he or she desires to engage in and the location thereof, the amount paid, and time the license shall expire; and the person having such license shall be authorized to carry on the business therein named. (Code 2003)

5-110. RECORD BOOK. The city clerk shall keep a book in which shall be entered the name of each person licensed, his or her address, the date of the license, the purpose for which it is granted, the amount paid therefor, and the time the same shall expire and within 24 hours after any license has expired, the city clerk shall notify the chief of police of such expiration, unless the same shall have been renewed. (Code 2003)

5-111. DISPLAY OF LICENSE. All persons doing business in a permanent location are required to have their license conspicuously displayed in their place of business, and all persons to whom licenses are issued not having a permanent place of business are required to carry their licenses with them and any licensee shall present the license for inspection when requested to do so by any citizen or officer of the city. (Code 2003)

ARTICLE 2. SOLICITORS, CANVASSERS, PEDDLERS

5-201. DEFINITIONS. For the purpose of this article, the following words shall be considered to have the following meanings:

(a) Soliciting shall mean and include any one or more of the following activities:

(1) Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, services, of any kind, character or description whatever, for any kind of consideration whatever; or

(2) Seeking to obtain prospective customers for application or purchase of insurance of any type, kind or character; or

(3) Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication.

(b) Residence shall mean and include every separate living unit occupied for residential purposes by one or more persons, contained within any type of building or structure.

(c) Canvasser or Solicitor shall mean any individual, whether resident of the city or not, whose business is mainly or principally carried on by traveling either by foot, automobile, motor truck, or any other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries, or exposes for sale a sample of the subject of such sale or whether he or she is collecting advance payments on such sales or not. Such definition shall include any person, who, for himself, herself or for another person, hires, leases, uses, or occupies any building, structure, tent, railroad boxcar, boat, hotel room, lodging house, apartment, shop or any other place within the city for the sole purpose of exhibiting samples and taking orders for future delivery.

(d) Peddler shall mean any person, whether a resident of the city or not, traveling by foot, automotive vehicle, or any other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale, or making sales and delivering articles to purchasers, or who, without traveling from place to place, shall sell or offer the same for sale from a wagon, automotive vehicle, railroad boxcar or other vehicle or conveyance, and further provided, that one who solicits orders and as a separate transaction makes deliveries to purchasers as a part of a scheme or design to evade the provisions of this article shall be deemed a peddler.

(e) Transient merchant, itinerant merchant or itinerant vendor are defined as any person, whether as owner, agent, consignee or employee, whether a resident of the city or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within such city, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, railroad boxcar, or boat, public room in hotels, lodging houses, apartments, shops or any street, alley or other place within the city, for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction. Such definition shall not be construed to include any person who, while occupying such temporary location, does not sell from stock, but exhibits samples only for the purpose of securing orders for future delivery only. The person so engaged shall not be relieved from complying with the provisions of this article merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer.

(f) Street salesman shall mean any person engaged in any manner in selling merchandise of any kind from a vehicle or stand temporarily located on the public streets or sidewalks of this city.
(Code 2003)

5-202. LICENSE REQUIRED. (a) It shall be unlawful for any person to engage in any of the activities defined in the preceding sections of this article, within the corporate limits of the city without then having an unrevoked and unexpired license therefor in his or her possession and issued by the city clerk.

(b) The governing body may waive the license requirements of this section for any person, firm or corporation exempt from the payment of a license fee under section 5-207(d).
(Ord. 258; Code 2003)

5-203. SAME; APPLICATION REQUIRED. Before the city clerk may issue any license required by this article, he or she shall require a sworn application in writing prepared in duplicate on a form to be supplied by the city clerk which shall give the following information:

(a) Name and description of applicant;

(b) Permanent home address and full local address of applicant;

(c) Identification of applicant including drivers license number, date of birth, expiration date of license and description of applicant;

(d) Identification of vehicle used by applicant including license therefor used by applicant in conducting his or her business;

(e) A brief description of the nature of the business to be carried on or the goods to be sold and the length of time such applicant has been engaged in the business;

(f) If employed, the name and address of the employer, together with credentials establishing such relationship, including the authority by the employer authorizing the applicant to represent the employer in conducting business;

(g) The length of time which business is proposed to be carried on;

(h) The place where services are to be performed or where the goods or property proposed to be sold or orders taken for the sale thereof are manufactured or produced, where such goods or products are located at the time the application is filed, and the proposed method of delivery;

(I) A photograph of the applicant, taken within 90 days prior to the date of making application which picture shall be at least two inches by two inches showing the head and shoulders of the applicant in a clear and distinguishing manner; or in lieu thereof, the fingerprints of the applicant may be taken by the chief of police and filed with the application;

(j) A statement as to whether or not the applicant has within two years prior to the date of the application been convicted of any crime, misdemeanor (other than minor traffic violations) or violation of any municipal law regulating peddlers, solicitors or canvassers and giving the nature of the offenses, the punishment assessed therefor, if any, and the city and state where conviction occurred.

(k) The applicant's Kansas Sales Tax number.
(Code 2003)

5-204. ISSUANCE; COUNTY RESIDENTS. (a) Except as provided in section 5-209, if the applicant is a current resident of Sedgwick County, Kansas, upon receipt of an application for a license and payment of the license fee, the city clerk shall issue the license. Such license shall contain the signature and seal of the issuing officer and shall show the name and address of the licensee, the date of issuance and length of time the license shall be operative, and the nature of the business involved. The city clerk shall keep a permanent record of all such licenses issued and submit a copy of such license to the chief of police. The licensee shall carry the license certificate at all times.

(b) If the applicant is not a current resident of Sedgwick County, Kansas, a license will not be issued until after investigation and payment of the investigation fee as provided in sections 5-205:206.
(Code 2003)

5-205. SAME; INVESTIGATION AND ISSUANCE; NON-COUNTY RESIDENT. (a) Upon receipt of the above application from an applicant who is not a current resident of Sedgwick County, Kansas, the city clerk shall refer the same to the chief of police who shall cause an investigation of the facts stated therein to be made within not to exceed five days.

(b) If as a result of the investigation, the applicant's character or business responsibility is found to be unsatisfactory or the facts stated therein to be untrue, the chief of police shall endorse on such application his or her findings and endorse his or her disapproval of the application and the reasons for the same and shall return the application to the city clerk who then shall notify the applicant that his or her application is disapproved and that no license will be issued.

(c) If however, the investigation of such application discloses that the character and business responsibility and the facts stated in the application are satisfactory and true, the chief of police shall endorse his or her findings and approval on the application and return the same to the city clerk who shall, upon payment of the license and investigation fees prescribed, issue a license to the applicant to engage in the business described in the application. Such license shall contain the signature and seal of the issuing officer and shall show the name and address of the licensee, the date of issuance and length of time the license shall be operative, and the nature of the business involved. The city clerk shall keep a permanent record of all such licenses issued and submit a copy of such license to the chief of police. The licensee shall carry the license certificate at all times. (Code 2003)

5-206. SAME; INVESTIGATION FEE. At the time of filing the application, a fee of $25 shall be paid to the city clerk to cover the cost of investigation of the facts stated in the foregoing application. (Code 2003)

5-207. LICENSE FEE; TIME LIMITS; EXEMPTIONS. (a) Except as provided in subsection (c), the fee for the license required pursuant to section 5-202 shall be in the amount of $5 per each day, or portion thereof, that the licensee shall operate within the city limits. In no event, however, shall fees in excess of $100 be collected from a licensee during any six-month period of time.

(b) Any such license granted upon application as required hereinabove shall be limited to and effective only on the days set out in the license. Solicitation

or sales by any peddler, solicitor or canvasser shall be conducted only between the hours of 8:00 a.m. and 9:00 p.m.

(c) Persons and firms not having a permanently established place of business in the city, but having a permanently established house-to-house or wholesale business shall receive a license as required by section 5-202 upon the payment of $100 for any year, and may make solicitations or sales only between the hours of 8:00 a.m. and 9:00 p.m., or upon invitation at any hour.

(d) No license fee shall be required of: (1) any person selling products of the farm or orchard actually produced by the seller; (2) any businesses, trades or occupations which are part of fairs or celebrations sponsored by the city or any other governmental subdivision, or the state, or when part of all of the expenses of the fairs or celebrations are paid for by the city, any other governmental subdivision, or the state; and (3) any not-for-profit or charitable organization as determined by the governing body.

(K.S.A. 12-1617; Code 2003)

5-208. RENEWAL. All licenses issued shall be subject to renewal upon a showing of compliance with sections 5-202:203 of this article within a six month period prior to the renewal date. The city clerk need not require an additional application under section 5-203 or an additional investigation and investigation fee under sections 5-205:206 unless complaints have been received of violations of the conditions under which any license has heretofore been issued. The city clerk shall not renew or extend any license where there is satisfactory evidence of any grounds for the suspension or revocation of any prior license, and the applicant shall be required to apply for a license as in the case of an original license. (Code 2003)

5-209. DENIAL, REVOCATION OR SUSPENSION OF LICENSE; NOTICE. (a) The city clerk or chief of police may deny any application or may revoke or suspend for a period of not to exceed 30 days any license issued under this article, for any of the following causes:

(1) Fraud, misrepresentation or false statement contained in the application for license.

(2) Fraud, misrepresentation or false statement made in the course of carrying on the business.

(3) Any violation of this article.

(4) Conducting a business as defined in section 5-201 in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the city. Notice of the denial, revocation or suspension of a license shall be given in writing to the applicant or mailed to his or her last known address and the city clerk shall set forth the grounds of such denial, revocation or suspension.

(5) Conviction of the crime of theft, larceny, fraud, embezzlement or any felony within two years prior to the application date.

(Code 2003)

5-210. APPEAL TO GOVERNING BODY. (a) Any person aggrieved by the action of the chief of police or city clerk in the denial of an application or revocation or suspension of a license as provided in this article, shall have the right of appeal to the governing body.

(b) Such appeal shall be taken by filing with the city clerk within 14 days after notice of revocation, suspension or denial of the license has been given to or mailed to such applicant's last known address and setting forth the grounds for appeal.

(c) The governing body shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the applicant in the same manner as provided herein for notice of denial, revocation or suspension.

(d) The decision and order of the governing body on such appeal shall be final and conclusive.
(Code 2003)

5-211. REGULATIONS. (a) It shall be unlawful for any licensee to make false or fraudulent statements concerning the quality of nature of his or her goods, wares and merchandise for the purpose of inducing another to purchase the same.

(b) Licensees are required to exhibit their license at the request of any person to whom they attempt to sell their goods, wares and merchandise or take orders for future delivery of the same.
(Code 2003)

5-212. USE OF STREETS AND SIDEWALKS. Except when authorized in writing by the city clerk, no peddler, solicitor or canvasser or any other person shall have exclusive right to any location in the public streets for the purpose of selling or soliciting sales, nor shall any person be permitted a stationary location in the public streets, nor shall any person be permitted to operate in the sidewalks and streets within the fire limits of the city or any congested area where his or her operations might impede or inconvenience the public. (Code 2003)

5-213. DISTURBING THE PEACE. Except when authorized in writing by the city clerk, no licensee nor any person in his or her behalf, shall use any sound device, including any loud-speaking radio or sound-amplifying system upon any of the streets, alleys, parks or other public places of the city or upon any private premises in the city where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell. (Code 2003)

ARTICLE 3. PRE-APPROVAL OR PREPAYMENT OF GASOLINE/DIESEL FUEL

5-301. DEFINITIONS. As used in this article, the following terms shall have the meanings given in this section:

(a) “Pre-approval” means the business establishment and/or persons employed by the business establishment have issued an identification card to the purchaser that verifies and records the purchaser’s driver’s license information and that allows the purchaser to dispense gasoline or diesel fuel in advance of payment.

(b) “Prepayment means payment in advance for any quantity of gasoline or diesel fuel sold at any time by cash, credit card, debit card, check or any other legal means.

5-302. GASOLINE PREPAYMENT OR PRE-APPROVAL. Business establishments and persons who are employed by business establishments that sell gasoline and/or diesel fuel shall require prepayment or pre-approval of the sale of gasoline and/or diesel fuel prior to activation or authorization to dispense gasoline or diesel fuel through a fuel dispensing unit or fuel pumping device.

5-303. PENALTY. It is unlawful for any person to violate the provisions of Section 5-302 of the Code of the City of Maize, Kansas. The penalty for violation of Section 5-302 shall be a fine that does not exceed $500 plus court costs.
(Ord. 897)

CHAPTER VI. ELECTIONS

Article 1. City Elections

ARTICLE 1. CITY ELECTIONS

6-101. CONDUCT OF ELECTION. The election of city officials shall be conducted in all respects as provided by the laws of Kansas governing the holding of city elections. (K.S.A. 25-2101 *et seq.*; Code 2003)

6-102. HOURS OF VOTING. At all city elections the polls shall be open at 7:00 a.m. and close at 7:00 p.m., unless different hours are set and publicly announced by the county election officer. (K.S.A. 25-2111, 26-206; Code 2003)

6-103. REPEALED. (Ord. 911)

6-104. VACANCIES; TIES; HOW FILLED. Whenever a tie vote shall occur in the vote of any of the aforesaid officers, the result shall be decided by lot by the board of canvassers. The city clerk shall, within three days after the canvass of the returns and determination by the board of canvassers of the persons elected, deliver to such persons elected, a certificate of election, signed by him with the seal of the city and such certificate shall constitute notice of election. The terms of the officers shall begin at the first regular meeting of the council in May following their election in April and they shall qualify at any time before or at the beginning of said meeting. If any person elected to the office of councilman does not qualify within the required time, he shall be deemed to have refused to accept the office and a vacancy shall exist and thereupon the mayor shall, with the consent of the majority of the remaining councilmen, appoint a suitable elector of the city to fill the vacancy for the term which the refusing person was elected. In case of a vacancy in the office of councilmen occurring by reason of resignation, death or removal from office, or from the city, the mayor, by and with the consent of the majority of the remaining councilmen, shall appoint some suitable elector of the city to fill the vacancy until the next election for that office. (C.O. No. 2, Sec. 3)

CHAPTER VI-A. FAIR HOUSING

Article 1. General Provisions

ARTICLE 1. GENERAL PROVISIONS

6A-101. POLICY. It is the policy of the City of Maize, Kansas, to provide, within constitutional limitations, for fair housing throughout the City.

6A-102. DEFINITIONS.

(a) **"City"** means the City of Maize, Kansas.

(b) **"City Administrator"** means the City Administrator for the City or his/her designee.

(c) **"Dwelling"** means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one (1) or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(d) **"Family"** includes a single individual.

(e) **"Person"** includes one (1) or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

(f) **"To Rent"** includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises owned by the occupant.

(g) **"Discriminatory Housing Practice"** means an act that is unlawful under Sections 6A-104, 6A-105, or 6A-106. (Ord. 689, Sec. 2)

6A-103. UNLAWFUL PRACTICE. Subject to the provisions of subsection 6A-103(b) herein and Section 6A-107 hereafter, the prohibitions against discrimination in the sale or rent of housing set forth in Chapter 6A, Article I, of the Code of the City shall apply to:

(a) All Dwellings except as exempted by subsection (b).

(b) Nothing in Section 6A-104 shall apply to:

(1) Any single-family house sold or rented by an owner; provided that such private individual owner does not own more than three (3) such single-family houses at any one time; provided, further, that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted

by this subsection shall apply with respect to one (1) such sale within any twenty-four (24) month period; provided, further, that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of more than three (3) such single-family houses at any one time; provided, further, that the sale or rental of any such single-family house shall be excepted from the application of this title only if such house is sold or rented (i) within the use in any manner of the sales or rental facilities or the sale or rental services of any real estate broker, agent or salesman, or of such facilities or services of any Person in the business of selling or renting Dwellings, or of any employee or agency of any such broker, agent, salesman, or Person and (ii) without the publication, posting or mailing, after notices of any advertisement or written notice in violation of Section 6A-104(c) of this article, but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title; or,

(2) Rooms or units in Dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one (1) of such living quarters as his residence.

(c) For the purposes of subsection (b), a Person shall be deemed to be in the business of selling or renting Dwellings if:

(1) they have, within the preceding twelve (12) months, participated as principal in three (3) or more transactions involving the sale or rental of any Dwelling or any interest therein; or

(2) they have, within the preceding twelve (12) months, participated as agent, other than the sale of his own personal residence, in providing sales or rental facilities or sale or rental services in two (2) or more transactions involving the sale or rental of any interest therein; or,

(3) they are the owner of any Dwelling designed or intended for occupancy by, or occupied by, five (5) or more families. (Ord. 689, Sec. 3)

6A-104. DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING. As made applicable by Section 6A-103 and except as exempted by Sections 6A-103(b) and 6A-107 herein, it shall be unlawful:

(a) to refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a Dwelling to any Person because of race, color, religion or national origin;

(b) to discriminate against any Person in the terms, conditions, or privileges of sale or rental of a Dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion or national origin;

(c) to make, print, or publish, or cause to be made, printed, or published any notice, statement or advertisement with respect to the sale or rental of a Dwelling that indicates any preference, limitation, or discrimination based on race, color, religion or national origin, or an intention to make any such preference, limitation or discrimination;

(d) to represent to any Person because of race, color, religion or national origin that any Dwelling is not available for inspection, sale or rental when such Dwelling is in fact so available;

(e) for profit, to induce or attempt to induce any Person to sell or rent any Dwelling by representations regarding the entry or prospective entry into the neighborhood of a Person or Persons of a particular race, color, religion or national origin. (Ord. 689, Sec. 4)

6A-105. DISCRIMINATION IN THE FINANCING OF HOUSING. It shall be unlawful for any bank, building and loan association, insurance company, or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a Person applying therefore for the purpose of purchasing, constructing, improving, repairing or maintaining a Dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of race, color, religion or national origin of such Person or of any Person associated with him in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the Dwelling or Dwellings in the relation to which such loan or other financial assistance is to be made or given: Provided, That nothing contained in this Section shall impair the scope or effectiveness of the exception contained in Section 6A-103(b). (Ord. 689, Sec. 5)

6A-106. DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICES. It shall be unlawful to deny any Person access to or membership or participation in any multi-listing service, real estate brokers organization or other service, organization or facility relating to the business of selling or renting Dwellings, or to discriminate against him in the terms or conditions of such access, membership or participation, on account of race, color, religion or national origin. (Ord. 689, Sec. 6)

6A-107. EXEMPTION. Nothing in this Article shall prohibit a religious organization, association, or society or any non-profit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society, from limiting the sale, or rental or occupancy of Dwellings which it owns or operates for other than a commercial purpose to Persons of the same religion, or from giving preference to such Persons, unless membership in such religion is restricted on account of race, color or national origin. Nor shall anything in this Article prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than commercial purposes, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members. (Ord. 689, Sec. 7)

6A-108. ADMINISTRATION.

(a) The authority and responsibility for administering this Article shall be the City Administrator.

(b) The City Administrator may delegate any of these functions, duties and powers to employees of the City or to Boards of such employees, including functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting or otherwise acting as to any work, business, or matter under this Article. (Ord. 689, Sec. 8)

6A-109. EDUCATION AND CONCILIATION. Immediately after the enactment of this Article, the City Administrator shall commence such educational and conciliatory activities as will further the purposes of this Article. The City Administrator shall call conferences of Persons in the housing industry and other interested parties to acquaint them with the provisions of this Article and his/her suggested means of implementing it, and shall endeavor with their advice to work out programs of voluntary compliance and of enforcement. (Ord. 689, Sec. 9)

6A-110. ENFORCEMENT.

(a) Any Person who claims to have been injured by Discriminatory Housing Practice or who believes that he will be irrevocably injured by a Discriminatory Housing Practice that is about to occur (hereafter "Person aggrieved") may file a complaint with the City Administrator. Complaints shall be in writing and shall contain such information and be in such form as the City Administrator requires. Upon receipt of such a complaint, the City Administrator shall furnish a copy of the same to the Person or Persons who allegedly committed or are about to commit the alleged Discriminatory Housing Practice. Within thirty (30) days after receiving a complaint or within thirty (30) days after the expiration of any period of reference under Subsection (c) herein, the City Administrator shall investigate the complaint and give notice in writing to the Person aggrieved whether he/she intends to resolve it. If the City Administrator decides to resolve the complaints, he/she shall proceed to try to eliminate or correct the alleged Discriminatory Housing Practice by informal methods of conference, conciliation and persuasion.

(b) A complaint under subsection (a) shall be filed within one hundred eighty (180) days after the alleged Discriminatory Housing Practice occurred. Complaints shall be in writing and shall state the facts upon which the allegations of a Discriminatory Housing Practice are based. Complaints may be reasonably and fairly amended at anytime. A respondent may file an answer to the complaint against him and with the leave of the City Administrator, which shall be granted whenever it would be reasonable and fair to do so, may amend his answer at anytime.

(c) If, within thirty (30) days after a complaint is filed with the City Administrator, he/she has been unable to obtain voluntary compliance with this Article, the Person aggrieved may, within thirty (30) days thereafter, file a complaint with the Secretary of the Department of Housing and Urban Development. The City Administrator will assist in this filing. (Ord. 689, Sec. 10)

6A-111. INTERFERENCE, COERCION OR INTIMIDATION. It shall be unlawful to coerce, intimidate, threaten or interfere with any Person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other Person in the exercise or enjoyment of, any right granted or protected by Sections 6A-103, 6A-104, 6A-105 and 6A-106. (Ord. 689, Sec. 11)

6A-112. SEPARABILITY OF PROVISIONS. If any provision of this Article or the application thereof to any Person or circumstances is held invalid, the remainder of the Article and the application of the provision to other Persons not similarly situated or to other circumstances shall not be affected thereby. (Ord. 689, Sec. 12)

6A-113. PENALTY. Any Person convicted of a violation of any provision of this Article shall be deemed guilty of a misdemeanor and shall be subject to jail confinement for a period of not to exceed one (1) year and a fine in an amount not to exceed Two Thousand Five Hundred Dollars ($2,500.00). (Ord. 689, Sec. 13)

CHAPTER VII. FIRE

ARTICLE 1. FIRE PREVENTION

7-101. (a) ADOPTION OF 2012 INTERNATIONAL FIRE CODE. The International Fire Code, 2012 Edition, including Appendices B, C, D, E, F, and G, and the International Fire Code Standards, published by the International Code Council, Inc., 500 New Jersey Ave. NW, 6th Floor, Washington, DC 20001, save and except portions as are changed, added or omitted in this Chapter VII of the Code of the City of Maize, Kansas, hereafter referred to as the "Fire Code," is hereby adopted in its entirety by the governing body of the City as the Fire Code of the City, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire and explosion. (Ord. 912)

(b) ADOPTION OF AMENDMENTS TO 2012 FIRE CODE AS ADOPTED BY SEDGWICK COUNTY, KANSAS. The amendments to the Fire Code as adopted by resolution and published by the Board of Commissioners of Sedgwick County, Kansas, in 2013, save and except such portions as are changed, added or omitted in this Chapter VII, hereafter referred to as "Sedgwick County Amendments to the Fire Code", is hereby adopted in its entirety by the governing body of the City. (Ord. 912)

(c) AVAILABILITY OF FIRE CODE AND SEDGWICK COUNTY AMENDMENTS TO FOR PUBLIC INSPECTION. Not less than three (3) copies of the Fire Code and three (3) copies of the Sedgwick County Amendments to the Fire Code shall be marked or stamped "Official Copy as incorporated by Ordinance No. 912", with all sections or portions thereof intended to be changed, added or omitted clearly marked to show any such changes, additions or omissions, and to which should be attached a copy of the incorporating ordinance, that shall be filed with the city clerk to be open to inspection and available to the public at all reasonable business hours. In addition, the police department, municipal judge and all administrative departments of the city charged with the enforcement of this ordinance shall be supplied with official copies. (Ord. 912)

7-102. SAME; ENFORCEMENT. The Amended Fire Code shall be enforced by the Fire Chief of Sedgwick County Fire District No. 1. (Ord. 687, Sec. 2)

7-103. ADDITIONS AND OMISSIONS TO THE SEDGWICK COUNTY, KANSAS, AMENDMENTS TO THE 2012 FIRE CODE.

(a) TABLE 105.1.4. OPERATIONAL PERMITS PORTION is hereby amended by adding the following:

All Burn Permits may be applied for online at www.sedgwickcounty.org/fire.

Open burning permit .....No fee
Agricultural burning permit .....No fee

(b) TABLE 105.1.4, OPERATIONAL PERMITS PORTION is hereby amended by deleting the following row of the Table:

Commercial burning $75.00

(c) TABLE 105.1.4, CONSTRUCTION PERMITS PORTION is hereby amended by adding the following:

Plan review.....Fees addressed in Section 114.5
(Ord. 912)

7-103A. AMENDMENT TO SECTION 9.03.2.1.2 Group A-2. Section 9.03.2.1.2 of the International Fire Code, 2012 Edition, is omitted and is changed to read as follows:

For the purpose of this Section 7-103A of the Code of the City of Maize, Kansas:

(a) "dinner theater" means a premises where a form of entertainment is provided that combines a restaurant meal with a staged play or musical concert;

(b) "staged play" means a form of written literature written by a playwright, usually consisting of scripted dialogue between characters, intended for theatrical performance rather than just reading;

(c) "musical concert" means a performance by one or more singers or instrumentalists or both that does not involve dancing by patrons, i.e., a musical concert is a listening event as opposed to a listening and dancing event;

(d) "gross revenues" means gross revenues derived from the sale of food for consumption on the premises and sale of alcohol for consumption on the premises combined; and

(e) "drinking establishment/restaurant" means a premises which is open to the general public where alcoholic liquor by the individual drink is sold, which derives not less than fifty percent (50%) of its gross revenue from the sale of food for consumption on the premises.

903.2.1.2 Group A-2. *An automatic sprinkler system shall be provided for new Group A-2 occupancies, and when existing A-2 occupancies are remodeled to the extent that requires the submission of building plans or the issuance of a building permit, when one or more of the following conditions exists:*

1. The fire area exceeds 5,000 square feet (464.5m2);

2. The fire area has an occupant load of 300 or more;

3. The fire area is located on a floor other than the level of exit discharge;

4. The fire area contains a nightclub, drinking establishment, bar, or tavern that has an occupant load of 125 or more, and where the consumption or possession of alcoholic beverages is permitted and entertainment in any form is provided;

5. The fire area contains a dinner theater that has an occupant load of 300 or more, and where consumption or possession of alcoholic beverages is permitted, i.e., there is a license to sell alcoholic beverages on the premises; or

6. The fire area contains a drinking establishment/restaurant that has an occupant load of 300 or more.

Enforcement of the food sales percentages required for drinking establishments/restaurants by the provisions of this Section 7-103A of the Code of the City of Maize, Kansas shall be by both random and initial audits of such establishments.

(a) Initial audit. Every owner/operator of a newly opened drinking establishment/restaurant shall be required to provide information as required in subsection (c) herein for an initial audit once the establishment has been in operation for a two month period.

(b) Random audits. Random audits of drinking establishment/restaurant may be held at any time, but not more than once every six (6) months. Owner/Operators shall be required to provide the information as required in subsection (c) herein when a random audit is conducted.

(c) Audits of drinking establishments/restaurants. Upon request of the City Administrator, information for any audit required by this section shall be submitted on forms approved by the City. The City Administrator shall be responsible for conducting or overseeing the audit process. Information for the audit which must be provided shall include, but not be limited to, copies of business records sufficient to demonstrate the total gross revenue for food sales and alcohol sales for the two calendar months that precede the date the City Administrator commences the audit, e.g., if a request is received on June 15, the audit would be for the months of April and May. Sufficient business records shall be deemed to include, but shall not be limited to, a list of vendors with verifying information, including written authorization from the licensee for any agent or agents of the City to contact vendors directly and obtain information regarding such records; a listing of monthly payments to food vendors and monthly payments to alcohol vendors. For the purpose of any audit required by this section, revenues from the sale of non-alcoholic beverages that are mixed with alcoholic liquor shall be counted as alcohol sales and not as food sales. When an audit is requested, the owner/operator shall remit all required information to the City Administrator within fifteen (15) days from the date of the request.

(d) Reclassification. Failure to provide the necessary business records as required, or the failure of the records provided to demonstrate that the required food sales percentages are being maintained will result in the reclassification of the premises from a drinking establishment/restaurant to a drinking establishment. An owner/operator of a business that is reclassified from a drinking establishment/ restaurant to a drinking establishment shall have four (4) months from the date of such reclassification to come into compliance with the requirement that drinking establishments must have a sprinkler system if the fire area for the establishment has an occupant load of 100 or more. (Ord. 912)

7-104. OPEN BURNING. (Reserved)

7-105. ACCUMULATION OF RUBBISH AND TRASH. It shall be unlawful for any person to allow to accumulate or to keep in any part of any building or outside of and adjacent to any building or in any alley, sidewalk, street or premises within 30 feet of any building any rubbish, trash, waste paper, excelsior, empty boxes, barrels or other combustibles which shall constitute a fire hazard. (Code 2003)

7-106. STACKING OF HAY OR STRAW. It shall be unlawful for any person to deposit, stack or store any hay or straw within 500 feet of any building located inside the fire limits of the city. (Code 2003)

7-107. KEEPING OF PACKING MATERIALS. It shall be unlawful to keep excelsior or other packing material in any other than metal or wood metal line boxes or bins having selfclosing or automatic covers. All refuse and trash from rooms where packing or unpacking is done shall be removed daily. (Code 2003)

7-108. STORAGE OF ASHES. It shall be unlawful to store ashes inside of any nonfireproof building unless they are stored in a noncombustible container or receptacle, and a clearance of at least five feet shall be maintained between such container or receptacle and any combustible materials not placed therein. Ashes shall not be stored outside of any building in wooden, plastic, or paper product receptacles or dumped in contact with or in close proximity to any combustible materials. (Code 2003)

7-109. FILLING GASOLINE TANKS OF MOTOR VEHICLES. The engines of motor vehicles shall be stopped when the gasoline tanks of such vehicles are being filled with gasoline at service stations or other places where gasoline is supplied to motor vehicles. The driver or person in control of such vehicle when the gasoline tank of same is being filled who refuses, neglects or fails to stop the engine of such vehicle shall likewise be guilty of a violation of this code. (Code 2003)

7-110. FIRE HAZARDS GENERALLY. It is unlawful for any person to cause or create anywhere within the city, or to permit on any premises under his or her control, any situation or condition that is conducive to or likely to cause or permit the outbreak of fire or the spreading of fire. Any situation or condition conducive to the outbreak of or spreading of fire, is declared to be a fire hazard. The violation of or failure to comply with any law pertaining to the storage, handling or use of inflammable oils, explosives, liquefied petroleum gases, or fertilizers and all wires and other conductors charged with electricity, is declared to be a fire hazard. The placing of stools, chairs or any other obstruction in the aisles, hallways, doorway, or exit of any theater, public hall, auditorium, church or other place of indoor public assemblage, or the failure to provide any such place of public assemblage with sufficient, accessible and unobstructed fire exits and escapes is also declared to be a fire hazard. The obstruction of any street, avenue, alley, fire hydrant or any other condition that might delay the fire department in fighting fire is declared to be unlawful. (Code 2003)

7-111. SAME; INSPECTIONS TO DISCOVER. It shall be the duty of the Sedgwick County fire department to inspect or cause to be inspected by fire department officers or members, as often as may be necessary all buildings, particularly all mercantile buildings, manufacturing plants, warehouses, garages, hotels, boarding houses, rooming houses, theaters, auditoriums and all places of public assemblage, for the purpose of discovering the violation of any fire preventive law or any fire hazard and ascertaining and causing to be corrected any conditions liable to cause fires and to see that all places of public assemblage, hotels and

rooming houses have sufficient and unobstructed facilities for escape therefrom in case of fire. (Code 2003)

7-112. ABATEMENT OF FIRE HAZARDS; ISSUING ORDER. Whenever any officer or member of the fire department shall find or discover any fire hazard or shall find in any building or upon any premises combustible or explosive material or dangerous accumulation of rubbish or unnecessary accumulation of paper, boxes, shavings or any other inflammable material, so situated as to endanger property by the probability of fire, or shall find or discover any violation of this chapter or any other law hazardous to public safety from fires, the fire chief shall order the fire hazard or danger from the fire forthwith abated and remedied and such order shall be complied with immediately by the owner or occupant of such buildings or premises. If the hazard or condition ordered abated and remedied is a violation of, or a failure to comply with any law, the Sedgwick County fire department shall report the matter to the city attorney and he or she shall, if he or she deems it advisable, prosecute the offender. (Code 2003)

7-113. SAME; SERVICE OF ORDER; RECORDS. Any order made under section 7-112 shall be in writing and may be served personally upon the owner or occupant of the premises or by leaving it with any person in charge of the premises or if the premises are unoccupied and the owner is a nonresident of the city, then by mailing a copy to the owner's last known post-office address. One notice to either the occupant or owner shall be sufficient. The Sedgwick County fire department shall keep a record of and copies of all such orders and notices and shall follow up such notices at the expiration of the time for compliance therewith and when complied with make proper entry, and if not complied with, file complaint with the municipal court against the property owner and/or occupant. (Code 2003)

ARTICLE 2. FIREWORKS

7-201. FIREWORKS. (a) Definition. Class C Fireworks ("Consumer Fireworks") means fireworks designed primarily to produce visible effects by combustion. The definition of Consumer Fireworks is based on the definition of the United States Department of Transportation of Consumer Fireworks (Code of Federal Regulations, Title 49, ¶ 173.100(R)). Some small devices designed to produce an audible effect are included, but only when containing two grains or less of pyrotechnic compositions. Propelling or expelling charges consisting of a mixture of sulfur, charcoal, and potassium nitrate (saltpeter) are not considered as designed to produce an audible effect. (Ord. 687, Sec. 4)

(b) Firing or Discharging of Consumer Fireworks. Consumer Fireworks may be fired or discharged on private property and in public places (public places means areas owned and/or operated by the city that are designated for such purposes by the governing body of the city) between the hours of 8:00 a.m. and 10:30 p.m. on June 27 through July 5. Public places that are designated for the firing and discharging of Consumer Fireworks shall be marked with signs that identify that the place is a designated firing and discharge place and a list of such places shall be kept at city hall for public inspection June 27 through July 5 each year. The governing body shall decide whether to have designated Consumer

Fireworks places and where such places are to be located by June 15 of each year. (Ord. 687, Sec. 4)

(c) Sale of Consumer Fireworks. Any person who has first obtained a valid permit to sell Consumer Fireworks within the city may do so between the hours of 8:00 a.m. and 10:30 p.m. commencing June 27 through July 5 of each year. (Ord. 687, Sec. 4)

(d) PERMITS FOR SALE OF FIREWORKS REQUIRED; FEE; ISSUANCE. The purpose of this Section of the Code of the City is to permit locations for the sale of fireworks within the city limits of the City, which controls the inconvenience, interference with pedestrian and vehicular traffic and damage to the public that could be caused by the unregulated placement of locations for the sale of fireworks within the city limits.

(1) It is unlawful for a person to sell, display for sale, offer to sell or give away Consumer Fireworks within the City limits, without first securing a permit to do so from the City Clerk of the City. A permit will authorize a holder of a permit to sell and display Consumer Fireworks from June 27 to July 5 of the year the permit is issued.

(2) Applications for a permit shall be submitted on forms prepared by the City. All applications shall have a sponsorship by a nonprofit organization from within the City and be on a form determined by, and include the information requested by, the City Clerk of the City.

(3) The permit fee for a permit to sell and display Consumer Fireworks is Four Thousand Dollars ($4,000.00) per premises and must be paid to the City at the time an application is submitted. The permit fee is non-refundable regardless of whether an application is denied based upon failure to qualify for a permit or whether the permit is withdrawn or canceled after it has been issued.

(4) A permit will not be issued if the selling of Consumer Fireworks would not be in compliance with pertinent City Codes, City zoning, State statutes, and State regulations, and a permit will not be issued for a location unless and until the location has been inspected and approved for compliance with Sedgwick County resolutions and regulations by a Sedgwick County inspector.

(5) The number of permits to sell Consumer Fireworks on Maize Road for any given year will not exceed three permits. Applications for permits for Maize Road will not be accepted before the first business day of February of the year for which the permit is to be issued. A permittee who operated a fireworks sale location on Maize Road during the previous year who was, during the previous year, in full compliance with Chapter 7 of the Code of the City and with other pertinent laws, may continue to operate a fireworks sale location on Maize Road by applying for a permit on or before the first business day following March 14 of the year for which the permit is to be issued. Thereafter, applications will be accepted on a first come, first served basis for any of the three permits that remain un-issued. Applications of those seeking fireworks sale permits who did not hold a permit the previous year will not be accepted after the last business day of April of the year for which the permit will be issued. Each permit located on Maize Road ill maintain a distance of not less than 1320 feet from other Maize Road permit holders. In 2018, the 3 permittees will be the three entities that hold a permit to sell fireworks on Maize Road as of May 30, 2018.

(6) The number of permittees to sell Consumer Fireworks at locations other than Maize Road for any given year will not exceed five permits.

Applications for permits for non-Maize-Road locations will not be accepted before the first business day of February of the year for which the permit is to be issued. A permittee who operated a non-Maize-Road fireworks sale location during the previous year who was, during the previous year, in full compliance with Chapter 7 of the City Code of the City and with other pertinent laws, may continue to operate a non-Maize-Road fireworks sale location by applying for a permit on or before the first business day following March 14 of the year for which the permit is to be issued. Thereafter, applications will be accepted on a first come, first served basis for any of the five permits that remain un-issued. Applications of those seeking fireworks sale permits, who did not hold a permit the previous year, will not be accepted after the last business day of the year for which the permit would be issued. In 2018, the five permittees will be the five entities who applied for non-Maize-Road fireworks sale permits on or before the first business day following March 14, 2018, for a 2018 fireworks sale permit.

(7) A permit holder under this Section 7-201(d) shall procure and maintain a policy of general liability insurance covering the selling and displaying of Consumer Fireworks under the permit in an amount of not less than one million dollars ($1,000,000.00) per occurrence. Such insurance shall be with an insurance company authorized to do business in the state of Kansas. Prior to the issuance of a permit, an applicant for a permit shall file with the City Clerk of the City a certificate of insurance evidencing the insurance coverage specified herein. The City shall be named as an additional insured under such insurance coverage and the certificate of insurance shall show the City as an additional insured. Certificates of insurance shall provide that the City shall be given thirty (30) days written notice of any cancellation or material change in the coverage of such insurance. (Ord. 944)

(e) Discharge on Streets and Public Property Prohibited. It shall be unlawful for any person to sell, discharge, ignite or fire any Consumer Fireworks within the city, except as allowed in conformance with section 7-201. (Ord. 687, Sec. 4)

(f) Throwing Prohibited. It shall be unlawful for any person to throw, cast or propel Consumer Fireworks of any kind in the direction of or in the path of any animal, person or group of persons, or from and in the direction of or into any vehicle of any kind. (Ord. 687, Sec. 4)

(g) Sale of Consumer Fireworks; Where Prohibited. (1) It shall be unlawful for Consumer Fireworks to be stored, sold or displayed for sale in a place of business where paint, oils, varnishes, turpentine or gasoline or other flammable substances are kept, unless such Consumer Fireworks are in a separate and distinct section or department of the premises. (2) Where the police chief deems there is a fire hazard, he or she is hereby authorized to have such hazard abated. (Ord. 687, Sec. 4)

(h) Retail Display of Consumer Fireworks. (1) All retailers are forbidden to expose Consumer Fireworks where the sun shines through glass on the merchandise displayed, except where such Consumer Fireworks are in the original package. (2) All Consumer Fireworks displayed for sale must remain in original packages, except where an attendant is on constant duty at all times where such Consumer Fireworks are on display; provided, that Consumer Fireworks in open stock may be kept in show cases or counters out of the reach of the public without an attendant being on duty. (3) Signs reading “Fireworks for Sale—No Smoking

Allowed" shall be displayed in the section of a store or premises set aside for the sale of Consumer Fireworks. (Ord. 687, Sec. 4)

(i) Fire Extinguishers Required. (1) Two functioning and approved fire extinguishers must be provided and kept in close proximity to the stock of Consumer Fireworks in all permanent buildings where Consumer Fireworks are stored, sold or displayed for sale.

(2) Small stands, temporarily erected to be used as a place for storing and selling Consumer Fireworks only, shall have one such fire extinguisher, or in lieu of the fire extinguisher, a pressurized water hose with nozzle end within five feet of the Consumer Fireworks stand. (Ord. 687, Sec. 4)

(j) Restrictions as to Gasoline Installations. It shall be unlawful to store, keep, sell, display for sale or discharge any Consumer Fireworks within fifty (50) feet of any gasoline pump, gasoline filling station, gasoline bulk station, or any building in which gasoline or volatile liquids are sold in quantities in excess of one gallon, except in stores where cleaners, paints and oils are handled in sealed containers only. (Ord. 687, Sec. 4)

(k) Authority of Police Chief. The chief of the police department is authorized to seize and confiscate all Consumer Fireworks which may be kept, stored or used in violation of any section of this article and all of the rules of the state fire marshal. He or she shall dispose of all such Consumer Fireworks as may be directed by the governing body. (Ord. 687, Sec. 4)

7-202. STORAGE OF FLAMMABLE OR COMBUSTIBLE LIQUIDS. Establishment of limits of districts in which storage of flammable or combustible liquids in outside aboveground tanks is prohibited. The storage of flammable or combustible liquids in outside, aboveground tanks is prohibited within the city. (Ord. 582, Sec. 5)

7-203. STORAGE OF LIQUIFIED PETROLEUM GASSES. Establishment of limits in which storage of liquified petroleum gases is to be restricted. The limits referred to in Section 82.103(A) of the Uniform Fire Code 1994 Edition, in which storage of liquified petroleum gas is restricted, are hereby established to include the heavily populated and the congested commercial and/or industrial area within the corporate limits of the city. (Ord. 582, Sec. 6)

7-204. ENFORCEMENT. The administration and enforcement of this article shall be vested in the city or their fully authorized representative, Sedgwick County Fire District No. 1. (Ord. 582, Sec. 7)

CHAPTER VIII. HEALTH AND WELFARE

ARTICLE 1. GENERAL PROVISIONS

8-101. NUISANCE LIGHTING. (a) No person shall install, maintain and/or use an outdoor visible light or other source of illumination which is on private property and produces glare or direct illumination across a property line in a residential area of such intensity that it creates a nuisance or unreasonable interferes with the use or enjoyment of adjacent property.

(b) Outside lights must be made up of a light source and reflector so that, acting together, the light beam is controlled and not directed across a property line.

(c) This section shall not apply to street lights or lights installed, maintained and use in connection with the use and operation of any outdoor stadium, amphitheater, or athletic field which is open to the public.

(d) To effect legal relief persons directly affected may sign a complaint in municipal court.

(Code 2003)

8-102. SWIMMING PROVISIONS. Private swimming pools in the city shall be protected and enclosed with a fence or wall enclosure at least 60 inches in height. Gates leading to such pools shall be latched when not under the supervision of an adult. Such latch shall reasonably ensure against accidental access to the pool by children. Fencing for the entire yard in which a swimming pool is located is acceptable provided such fence or wall complies with the above requirements and is not in conflict with the city's zoning regulations. In lieu of the fencing specified above, such swimming pool may be protected and enclosed, when not under the supervision of an adult, by means of a power safety cover meeting the most recent specifications approved by the American Society for Testing and Materials for swimming pool covers under the fixed designation standard F 1346 (ATSM 1346). (Code 2003)

ARTICLE 2. HEALTH NUISANCES

8-201. NUISANCES UNLAWFUL; DEFINED. It shall be unlawful for any person to maintain or permit any nuisance within the city as defined, without limitation, as follows:

(a) Filth, excrement, lumber, rocks, dirt, cans, paper, trash, metal or any other offensive or disagreeable thing or substance thrown or left or deposited upon any street, avenue, alley, sidewalk, park, public or private enclosure or lot whether vacant or occupied;

(b) All dead animals not removed within 24 hours after death;

(c) Any place or structure or substance which emits or causes any offensive, disagreeable or nauseous odors;

(d) All stagnant ponds or pools of water;

(e) All grass or weeds or other unsightly vegetation not usually cultivated or grown for domestic use or to be marketed or for ornamental purposes;

(f) Abandoned iceboxes or refrigerators kept on the premises under the control of any person, or deposited on the sanitary landfill, or any icebox or refrigerator not in actual use unless the door, opening or lid thereof is unhinged, or unfastened and removed therefrom;

(g) All articles or things whatsoever caused, kept, maintained or permitted by any person to the injury, annoyance or inconvenience of the public or of any neighborhood;

(h) Any fence, structure, thing or substance placed upon or being upon any street, sidewalk, alley or public ground so as to obstruct the same, except as permitted by the laws of the city;

(i) Wastewater discharged or allowed to accumulate in such a manner that it does or may allow direct human contact with human or animal excrete, organic, or inorganic pollution of ground or surface water, breeding, harboring, or attracting of rodents, or the emission of offensive odors;

(j) Animal excrement not managed or disposed of as provided in the city's animal control ordinance, Chapter 2, of the city code;

(k) Open basement structures, excavations, swimming pools, storm cellars, or other excavations that create hazards to any person, collect water, or produce mosquitoes or create health or safety hazards to children or other persons except those excavations authorized by a current building permit and those excavations in use as part of occupied premises if maintained with adequate drainage and fencing consisting of material recognized for the purpose and having openings not larger than two inches in the least dimensions;

(l) Refuse not stored or properly confined and regularly disposed of in a manner approved by the public officer. Proper storage of refuse shall consist of watertight, flytight containers with flytight covers. The refuse container may be left at the curb for a 24 hour period which includes the time the refuse company will be in the area for pick up, but at all other times, the refuse container shall be stored in a garage or an area away from the curb. Disposal of such refuse will be made on a weekly basis or more often as required in order to prevent the creation of a nuisance;

(m) Sanitary sewage or wastewater, including septic tank cleaning, that is not managed or disposed of in a sanitary and healthful manner as determined by the city's sanitary sewage ordinance or as approved by the public officer;

(n) Dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities;

(o) Excessive noise resulting from any use or occupancy;

(p) All premises in the city shall be maintained free of conditions that encourage or permit any unnecessary breeding of insects that are annoying or dangerous to residents of the city. Exterior windows and doors of all buildings used for human habitation, or for the storage, preparation or serving of food, shall be screened in a manner prescribed by the public officer.

Whenever the public officer finds that it is impossible or impractical for owners or occupants not individually control populations of dangerous or annoying insects, he shall institute measures on a community-wide basis for a practical program for control including chemical and other suppressive means.

(K.S.A. 21-4106:4107; Code 2003)

8-202. PUBLIC OFFICER. The governing body shall designate a public officer to be charged with the administration and enforcement of this article. (Code 2003)

8-203. COMPLAINTS; INQUIRY AND INSPECTION. The public officer shall make inquiry and inspection of premises upon receiving a complaint or complaints in writing signed by two or more persons stating that a nuisance exists and describing the same and where located or is informed that a nuisance may exist by the chief of police. The public officer may make such inquiry and inspection when he or she observes conditions which appear to constitute a nuisance. Upon making any inquiry and inspection the public officer shall make a written report of findings. (Ord. 539, Sec. 9; Code 2003)

8-204. RIGHT OF ENTRY. The public officer has 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. (Ord. 539, Sec. 11; Code 2003)

8-205. NOTICE. Any person, corporation, partnership or association found by the public officer to be in violation of section 8-201 shall be served a notice of such violation. The notice shall be served on the owner or agent of such property by certified mail, return receipt requested, or by personal service, or if the same is unoccupied and the owner is a nonresident, then by mailing a notice by certified mail, return receipt requested, to the last known address of the owner. (K.S.A. 12-1617e; Ord. 539, Sec. 9; Code 2003)

8-206. SAME; CONTENTS. The notice shall state the condition(s) which is (are) in violation of section 8-201. The notice shall also inform the person, corporation, partnership or association that

(a) He, she or they shall have 10 days from the date of serving the notice to abate the condition(s) in violation of section 8-201; or

(b) He, she or they have 10 days from the date of serving the notice to request a hearing before the governing body of the matter as provided by section 8-209;

(c) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by section 8-207 and/or abatement of the condition(s) by the city as provided by section 8-208.
(Ord. 539, Sec. 9; Code 2003)

8-207. 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 public officer may file a complaint in the municipal court of the city against such person, corporation, partnership or association and upon conviction of any violation of provisions of section 8-201, be fined in an amount not to exceed $100 or be imprisoned not to exceed 30 days or be both fined and imprisoned. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense. (Ord. 539, Sec. 10; Code 2003)

8-208. ABATEMENT. In addition to, or as an alternative to prosecution as provided in section 8-207, the public officer may seek to remedy violations of this section in the following manner. If a person to whom a notice has been sent pursuant to section 8-205 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in section 8-206, the public officer may present a resolution to the governing body for adoption authorizing the public officer or other agents of the city to abate the conditions causing the violation at the end of 10 days after passage of the resolution. The resolution shall further provide that the costs incurred by the city shall be charged against the lot or parcel of ground on which the nuisance was located as provided in section 8-210. A copy of the resolution shall be served upon the person in violation in one of the following ways:

(a) Personal service upon the person in violation;

(b) Service by certified mail, return receipt requested; or

(c) In the event the whereabouts of such person are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the public officer and filed with the city clerk, and the serving of the resolution shall be made by publishing the same once each week for two consecutive weeks in the official city newspaper and by posting a copy of the resolution on the premises where such condition exists.
(Ord. 539, Sec. 11; Code 2003)

8-209. HEARING. If a hearing is requested within the 10 day period as provided in section 8-206, such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the public officer before the governing body. The hearing shall be held by the governing body as soon as possible after the filing of the request therefore, and the person shall be advised by the city of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the governing body shall record its determination of the matter by means of adopting a resolution and serving the

resolution upon the person in the manner provided in section 8-208. (Ord. 539, Sec. 12; Code 2003)

8-210. COSTS ASSESSED. If the city abates the nuisance pursuant to section 8-208, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following receipt of the notice. If the cost of the removal or abatement is not paid within the 30-day period, the cost shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments 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. (Ord. 539, Sec. 13; Code 2003)

ARTICLE 2A. ENVIRONMENTAL CODE

8-2A01. TITLE. This article shall be known as the "Environmental Code." (Code 2003)

8-2A02. 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 2003)

8-2A03. PURPOSE. The purpose of this article is to protect, preserve, upgrade, and regulate the environmental quality of industrial, commercial and residential neighborhoods in this city, by outlawing conditions which are injurious to the health, safety, welfare or aesthetic characteristics of the neighborhoods and to provide for the administration and enforcement thereof. (Code 2003)

8-2A04. RULES OF CONSTRUCTION. For the purpose of this article, the following rules of construction shall apply:

(1) Any part thereof - Whenever the words premises, structure, building or yard are used they shall be construed as though they were followed by the words "or any part thereof."

(2) Gender - Words of gender shall be construed to mean neuter, feminine or masculine, as may be applicable.

(3) Number - Words of number shall be construed to mean singular or plural, as may be applicable.

(4) Tense - Words of tense shall be construed to mean present or future, as may be applicable.

(5) Shall - The word shall is mandatory and not permissive.

(Code 2003)

8-2A05. DEFINITIONS. The words and phrases listed below when used in this article shall have the following meanings:

(1) Abandoned Motor Vehicle - any motor vehicle which is not currently registered or tagged pursuant to K.S.A. 8-126 to 8-149 inclusive, as amended; or parked in violation of the code; or incapable of moving under its own power; or in a junked or wrecked condition.

(2) Accessory Structure - a secondary structure detached from the principal structure but on the same premises, including, but not limited to, garages, sheds, barns, or outbuildings.

(3) Commercial or Industrial - used or intended to be used primarily for other than residential purposes.

(4) Dilapidation, Deterioration or Disrepair - shall mean any condition characterized by, but not limited to: holes, breaks, rot, decay, crumbling, cracking, peeling or flaking paint, rusting, or other evidence of physical damage, neglect, lack of maintenance, excessive use or weathering.

(5) Exterior - those parts of a structure which are exposed to the weather or subject to contact with the elements; including, but not limited to: sidings, facings, veneers, masonry, roofs, foundations, porches, screens, shutters, windows, doors or signs.

(6) Garbage - without limitation any accumulation of animal, fruit or vegetable waste matter that results from the handling, preparation, cooking, serving, delivering, storage, or use of foodstuffs.

(7) Open Exterior Structures - porch, deck, carport, storage building or any other similar structure which allows items to be visible.

(8) Person - 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.

(9) Premises - any lot, plot or parcel of land including the structures thereon. Premises shall also mean any lot, plot or parcel of land without any structures thereon.

(10) Refuse - garbage and trash.

(11) Residential - used or intended to be used primarily for human habitation.

(12) Structure - anything constructed or erected which requires location on the ground or is attached to something having a location on the ground including any appurtenances belonging thereto.

(13) Trash - combustible waste consisting of, but not limited to: papers, cartons, boxes, barrels, wood, excelsior, furniture, bedding, rags, leaves, yard trimmings, or tree branches and non-combustible waste consisting of, but not limited to: metal, tin, cans, glass, crockery, plastics, mineral matter, ashes, clinkers, or street rubbish and sweepings.

(14) Weathered - deterioration caused by exposure to the elements.

(15) Yard - the area of the premises not occupied by any structure.
(Code 2003)

8-2A06. PUBLIC OFFICER. The mayor with the consent of the council shall designate a public officer to be charged with the administration and enforcement of this article.
(Ord. 531; Code 2003)

8-2A07. ENFORCEMENT STANDARDS. No person shall be found in violation of this article unless the public officer, after a reasonable inquiry and inspection of the premises, believes that conditions exist of a quality and appearance not commensurate with the character of the neighborhood. Such belief must be supported by evidence of a level of maintenance significantly below that of the rest of the neighborhood. Such evidence shall include conditions declared unlawful under section 8-2A08 but shall not include conditions which are not readily visible from any public place or from any surrounding private property.(Code 2003)

8-2A08. UNLAWFUL ACTS It shall be unlawful for any person to allow to exist on any residential, commercial or industrial premises, conditions which are injurious to the health, safety or general welfare of the residents of the community or conditions which are detrimental to adjoining property, the neighborhood or the city. For the purpose of fair and efficient enforcement and administration, such unlawful conditions shall be classified as follows:

(a) Exterior conditions (yard) and open exterior structures shall include, but not be limited to, the scattering over or the parking, leaving, depositing or accumulation on the yard of any of the following:

(1) lumber, wire, metal, tires, concrete, masonry products, plastic products, supplies, equipment, machinery, auto parts, junk or refuse;

(2) abandoned motor vehicles; or

(3) furniture, stoves, refrigerators, televisions, sinks, bicycles, lawn mowers, or other such items of personal property.

(4) nauseous substances, carcasses of dead animals or places where animals are kept in an offensive manner.

(b) Exterior conditions (structure) shall include, but not be limited to, deteriorated, dilapidated, or unsightly:

(1) exteriors of any structure;

(2) exteriors of any accessory structure; or

(3) fences, walls, or retaining walls.

(c) Minor auxiliary of accessory building or structures such as privies, sheds, barns, garages, tool houses and vacant houses and commercial structures which have become so dilapidated and deteriorated as to be a potential accident hazard, rate harborage, attractive nuisance to children or to be offensive to the senses.
(Ord. 539, Sec. 2; Code 2003)

8-2A09. NOTICE Any person found by the public officer to be in violation of section 8-2A08 shall be sent a notice of such violation by the public officer. The notice shall be sent by certified mail, return receipt requested The notice shall state:

(a) The condition which has caused the violation of this article; and

(b) That the person in violation shall have:

(1) 15 days from the date of the mailing of the notice to alleviate the exterior conditions (yard) violation; and/or;

(2) 45 days from the date of the mailing of the notice to alleviate the exterior conditions (structure) violation;

or in the alternative to subsections (1) and (2) above,

(3) 15 days from the date of the mailing of the notice to request, as provided in section 8-2A13 a hearing before the governing body on the matter; and

(c) That failure to alleviate the condition or to request a hearing may result in prosecution under section 8-2A10 and/or abatement of the condition by the city according to section 8-2A11 with the costs assessed against the property under section 8-2A14.

(Ord. 539, Sec. 9; Code 2003)

8-2A10. PENALTY. The public officer may file a complaint in the municipal court against any person found to be in violation of section 8-2A08, provided however, that such person shall first have been sent a notice as provided in section 8-2A09 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 section 8-2A09. Upon such complaint in the municipal court, any person found to be in violation of section 8-2A08 shall upon conviction be punished by a fine of not less than $50 nor more than $100, or by imprisonment, for not more than 30 days, or by both such fine and imprisonment, for each offense. For the purposes of this article, a separate offense shall be deemed committed on each day during or on which such violation is permitted to exist. (Code 2003)

8-2A11. RIGHT OF ENTRY. It shall be a violation of this article to deny the public officer or any authorized assistants, employees, contracting agents or other representatives 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 and to abate such nuisances. (Ord. 531, Sec. 2)

8-2A12. ABATEMENT. In addition to, or as an alternative to, prosecution as provided in section 8-2A10, the public officer may seek to remedy violations of this article in the following manner. If a person to whom a notice has been sent pursuant to section 8-2A09 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in section 8-2A09, the public officer may present a resolution to the governing body for adoption authorizing the public officer or other agents of the city to abate the conditions causing the violation at the end of 20 days after passage of the resolution. The resolution shall further provide that the costs incurred by the city shall be assessed against the property as provided in section 8-2A16.

A copy of the resolution shall be served upon the person in violation in one of the following ways:

(a) Personal service upon the person in violation;

(b) Service by certified mail, return receipt requested; or

(c) In the event the whereabouts of such person are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the public officer and filed with the city clerk, and the

serving of the resolution shall be made by publishing the same once each week for two consecutive weeks in the official city newspaper and by posting a copy of the resolution on the premises where such conditions exist.
(Code 2003)

8-2A13. HEARING BEFORE GOVERNING BODY. If a hearing is requested within the 15 day period as provided in section 8-2A09 such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the public officer before the governing body. The hearing shall be held by the governing body as soon as possible after the filing of the request therefor, and the person shall be advised by the city of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the governing body shall record its determination of the matter by means of adopting a resolution and serving the resolution upon the person in the manner provided in section 8-2A12. (Code 2003)

8-2A14. APPEALS. Any person affected by any determination of the governing body under sections 8-2A12 or 8-2A13 may appeal such determination in the manner provided by K.S.A. 60-2101. (Code 2003)

8-2A15. COSTS ASSESSED. If the city abates the conditions in violation of this article and pursuant to section 8-2A11, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following receipt of the notice. If the cost of the removal or abatement is not paid within the 30-day period, the cost shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments against the lot or parcel of land on which the conditions were located and the city clerk, at the time of certifying other city taxes, shall certify 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. (Ord. 539, Sec. 13; Code 2003)

8-2A16. CONSTRUCTION. Nothing in this article shall be construed to abrogate or impair the powers of the courts or of any department of the city to enforce any provisions of its laws nor to prevent or punish violations thereof. The powers conferred by this article shall be in addition to and supplemental to the powers conferred by the Kansas Constitution, by any other law or by ordinance. (Code 2003)

ARTICLE 3. JUNKED MOTOR VEHICLES ON PRIVATE PROPERTY

8-301. FINDINGS OF GOVERNING BODY. The governing body finds that junked, wrecked, dismantled, inoperative or abandoned vehicles affect the health, safety and general welfare of citizens of the city because they:

(a) Serve as a breeding ground for flies, mosquitoes, rats and other insects and rodents;

(b) Are a danger to persons, particularly children, because of broken glass, sharp metal protrusions, insecure mounting on blocks, jacks or other supports;

(c) Are a ready source of fire and explosion;

(d) Encourage pilfering and theft;

(e) Constitute a blighting influence upon the area in which they are located;

(f) Constitute a fire hazard because they frequently block access for fire equipment to adjacent buildings and structures.

(Ord. 534, Sec. 1; Code 2003)

8-302. DEFINITIONS. As used in this article, unless the context clearly indicates otherwise:

(a) Inoperable means a condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned or unable to perform the function or purpose for which it was originally constructed;

(b) Vehicle means, without limitation, any automobile, truck, tractor or motorcycle which as originally built contained an engine, regardless of whether it contains an engine at any other time.

(Ord. 534, Sec. 2; Code 2003)

8-303. NUISANCES UNLAWFUL; DEFINED; EXCEPTIONS. It shall be unlawful for any person to maintain or permit any motor vehicle nuisance within the city.

(a) A motor vehicle nuisance is any motor vehicle which is not currently registered or tagged pursuant to K.S.A. 8-126 to 8-149 inclusive, as amended; or parked in violation of city ordinance; or incapable of moving under its own power; or in a junked, wrecked or inoperable condition. Any one of the following conditions shall raise the presumption that a vehicle is junked, wrecked or inoperable;

(1) Absence of a current registration plate upon the vehicle;

(2) Placement of the vehicle or parts thereof upon jacks, blocks, or other supports;

(3) Absence of one or more parts of the vehicle necessary for the lawful operation of the vehicle upon street or highway.

(b) The provisions of this section shall not apply to:

(1) Any motor vehicle which is enclosed in a garage or other building;

(2) To the parking or storage of a vehicle inoperable for a period of 30 consecutive days or less; or

(3) To any person conducting a business enterprise in compliance with existing zoning regulations or who places such vehicles behind screening of sufficient size, strength and density to screen such vehicles from the view of the public and to prohibit ready access to stored vehicles by children. However, nothing in this subsection shall be construed to authorize the maintenance of a public nuisance.

(Ord. 534, Sec. 3; Code 2003)

8-304. PUBLIC OFFICER. The mayor shall designate a person to be the public officer for the city who shall be responsible for the administration and enforcement of the city's ordinances regarding health and sanitation, public nuisances, weeds and vegetation, trees, shrubbery and hedges, abandoned or inoperable vehicles, sewage, and other environmental ordinances. The mayor may also appoint one or more assistants to the office. The public officer may enlist the assistance of any other employee of the city or any other volunteer in the administration or enforcement of the duties and responsibilities set forth herein. The public officer may also coordinate administration and enforcement of city ordinances with officers and employees of the Sedgwick County Department of Health and Environment. (Ord. 531, Sec. 1; Code 2003)

8-305. COMPLAINTS; INQUIRY AND INSPECTION. The public officer shall make inquiry and inspection of premises upon receiving a complaint or complaints in writing signed by two or more persons stating that a nuisance exists and describing the same and where located or is informed that a nuisance may exist by the board of health, chief of police or the fire chief. The public officer may make such inquiry and inspection when he or she observes conditions which appear to constitute a nuisance. Upon making any inquiry and inspection the public officer shall make a written report of findings. (Code 2003)

8-306. RIGHT OF ENTRY. It shall be a violation of this article to deny the public officer or any authorized assistants, employees, contracting agents or other representatives 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 and to abate such nuisances. (Ord. 531, Sec. 2; Code 2003)

8-307. NOTICE. Any person found by the public officer to be in violation of section 8-303 shall be served a notice of such violation. The notice shall be served by certified mail, return receipt requested; provided, that if the owner or his or her agent in charge of the property is a resident of Sedgwick County, Kansas, the notice shall be personally served by the public officer or a law enforcement officer. (Ord. 534, Sec. 4; Code 2003)

8-308. SAME; CONTENTS. The notice shall state the condition(s) which is (are) in violation of section 8-303. The notice shall also inform the person that:

(a) He, she or they shall have five days from the date of serving the entice to abate the condition(s) in violation of section 8-303; or

(b) He, she or they have five days from the date of serving the notice to request a hearing before the governing body of the matter as provided by section 8-312;

(c) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by section 8-309 and/or abatement of the condition(s) by the city as provided by section 8-310.

(Ord. 534, Sec. 4; Code 2003)

8-309. FAILURE TO COMPLY; PENALTY. Should the person fail to comply with the notice to abate the nuisance or request a hearing, the public officer may file a

complaint in the municipal court of the city against such person and upon conviction of any violation of provisions of section 8-303, be fined in an amount not to exceed $100 or be imprisoned not to exceed 30 days or be both fined and imprisoned. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense. (Ord. 534, Sec. 5; Code 2003)

8-310. ABATEMENT. In addition to, or as an alternative to prosecution as provided in section 8-309, the public officer may seek to remedy violations of this article in the following manner. If a person to whom a notice has been sent pursuant to section 8-307 has neither alleviated the conditions causing the alleged violation or requested a hearing before the governing body within the time period specified in section 8-308, the public officer may present a resolution to the governing body for adoption authorizing the public officer or other agents of the city to abate the conditions causing the violation at the end of 10 days after passage of the resolution.

The resolution shall further provide that the costs incurred by the city shall be charged against the lot or parcel of ground on which the nuisance was located as provided in section 8-313. A copy of the resolution shall be served upon the person in violation in one of the following ways:

(a) Personal service upon the person in violation;

(b) Service by certified mail, return receipt requested; or

(c) In the event the whereabouts of such person are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the public officer and filed with the city clerk, and the serving of the resolution shall be made by publishing the same once each week for two consecutive weeks in the official city newspaper and by posting a copy of the resolution on the premises where such condition exists.

(Ord. 534, Sec. 6; Code 2003)

8-311. DISPOSITION OF VEHICLE. Disposition of any motor vehicle removed and abated from private property pursuant to this article shall be as provided by K.S.A. Supp. 8-1102, as amended. (Ord. 534, Sec. 7; Code 2003)

8-312. HEARING. If a hearing is requested within the five day period as provided in section 8-308, such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the public officer before the governing body. The hearing shall be held by the governing body as soon as possible after the filing of the request therefore, and the person shall be advised by the city of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the cit may introduce such witnesses and evidence as is deemed necessary and proper by the governing body. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the governing body shall record its determination of the matter by means of adopting a resolution and serving the resolution upon the person in the matter provided in section 8-310. (Ord. 534, Sec. 8; Code 2003)

8-313. COSTS ASSESSED. If the city abates the nuisance pursuant to section 8-310, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following receipt of the notice. If the cost of the removal or abatement is not paid within the 30-day period, the cost shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments 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 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. (Ord. 534, Sec. 9; Code 2003)

ARTICLE 4. WEEDS

8-401. 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. 532, Sec. 1; Code 2003)

8-402. DEFINITIONS. Weeds as used herein, means any of the following:

(a) Brush and woody vines shall be classified as weeds;

(b) Weeds and grasses which may attain such large growth as to become, when dry, a fire menace to adjacent improved property;

(c) Weeds which bear or may bear seeds of a downy or wingy nature.

(d) Weeds which are located in an area which harbors rats, insects, animals, reptiles, or any other creature which either may or does constitute a menace to health, public safety or welfare;

(e) Weeds and grasses on or about residential property which, because of its height, has a blighting influence on the neighborhood. Any such weeds and grasses shall be presumed to be blighting if they exceed six inches in height. (Ord. 532, Sec. 2; Code 2003)

8-403. PUBLIC OFFICER; NOTICE TO REMOVE. The mayor with the consent of the council shall designate a public officer to be charged with the administration and enforcement of this ordinance. The public officer or an authorized assistant shall notify in writing the owner, occupant or agent in charge of any premises in the city upon which weeds exist in violation of this ordinance, by certified mail, return receipt requested, or by personal service, once per calendar year. Such notice shall include the following:

(a) That the owner, occupant or agent in charge of the property is in violation of the city weed control law.

(b) That the owner, occupant, or agent in charge of the property is ordered to cut the weeds within 10 days of the receipt of notice.

(c) That the owner, occupant or agent in charge of the property may request a hearing before the governing body or its designated representative within five days of the receipt of notice.

(d) That if the owner, occupant or agent in charge of the property does not cut the weeds, the city or its authorized agent will cut the weeds and assess the cost of the cutting, including a reasonable administrative fee, against the owner, occupant or agent in charge of the property.

(e) That the owner, occupant or agent in charge of the property will be given an opportunity to pay the assessment, and, if it is not paid, it will be added to the property tax as a special assessment.

(f) That no further notice shall be given prior to removal of weeds during the current calendar year.

(g) That the public officer should be contacted if there are any questions regarding the order.

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. 532, Sec. 4; Code 2003)

8-404. HEARING AFTER NOTICE OF ABATEMENT. (a) If a timely request is made by any owner, operator, or occupant, the hearing shall be held within five business days thereafter before the city administrator or designee, who shall be the hearing officer. The purpose of the hearing will be to review the determination by the public officer that a violation of this article has or is occurring. Formal rules of evidence shall not apply. The hearing officer may consider any evidence. The hearing shall occur under such circumstances and shall follow such procedures as the hearing officer shall, from time to time, reasonably establish. The hearing officer shall issue a written order within five business days following the close of the hearing. The order of the hearing officer shall be mailed to all persons named in the notice at their last known address. The hearing officer's order shall be final.

(b) If the hearing officer shall determine that no violation has occurred or is occurring, then no further action to abate the nuisance described by the notice shall be required of the owner, operator, or occupant therein named. The hearing officer's order shall terminate all proceedings under this article.

(c) If the hearing officer shall determine that a violation of this article has occurred or is occurring, then the owner, operator, or occupant shall have 10 days from the date of the order to abate the nuisance. If the owner, operator, or occupant do not abate the nuisance within that time, then the city may proceed under section 8-406 of this article.

(Ord. 532, Sec. 5)

8-405. ABATEMENT; ASSESSMENT OF COSTS. (a) Upon the expiration of 10 days after receipt of the notice required by section 8-403, and in the event that the owner, occupant or agent in charge of the premises shall neglect or fail to comply with the requirements of section 8-401, the public officer or an authorized assistant shall cause to be cut, destroyed and/or removed all such weeds and abate the nuisance created thereby at any time during the current calendar year.

(b) The public officer or an authorized assistant shall give notice to the owner, occupant or agent in charge of the premises by certified mail, return receipt requested, of the costs of cutting or removal incurred by the city. The city may also recover the costs of providing the notice, including postage. The notice shall state that payment of the costs is due and payable within 30 days following receipt of the notice.

(c) If the cost of the removal or abatement is not paid within the 30-day period following receipt of the notice, the cost shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments against the lot or parcel of land on which the weeds were so removed, and against such lots or parcels of land in front of or abutting on such street or alley on which such weeds were removed, and the city clerk, at the time of certifying other city taxes, shall certify 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. 532, Sec. 6; Code 2003)

8-406. SAME; COSTS. Costs for the abatement of any nuisance shall be as follows:

(a) If the city agrees with a third party to abate the nuisance the costs will be the actual costs of the city;

(b) If the city employees abate the nuisance, then the costs will be the greater of (i) any hourly charge of $85 per hour for each city employee who works on the job; or (ii) a charge of $95 per lot for each lot upon which a violation of section 8-401 occurs, plus,

(c) An administrative fee which may be established by resolution from time to time by the city council.

(Ord. 532, Sec. 6)

8-407. 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. 532; Code 2003)

8-408. 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 a code violation. (Code 2003)

8-409. NOXIOUS WEEDS. (a) Nothing in this article shall affect or impair the rights of the city under the provisions of Chapter 2, Article 13 of the Kansas Statutes Annotated, relating to the control and eradication of certain noxious weeds.

(b) For the purpose of this section, the term noxious weeds shall mean kudzu (Pueraria lobata), field bindweed (Convolvulus arvensis), Russian knapweed (Centaurea picris), hoary cress (Lepidium draba), Canada thistle

(Cirsium arvense), quackgrass (Agropyron repens), leafy spurge (Euphorbia esula), burragweed (Franseria tomentosa and discolor), pignut (Hoffmannseggia densiflora), musk (nodding) thistle (Carduus nutans L.), and Johnson grass (Sorghum halepense), and sericea lespedeza (Lespedeza cuneata).
(K.S.A. 2-1314; Ord. 532, Sec. 7; Code 2003)

8-410. FAILURES TO COMPLY; CRIMINAL PENALTY. (a) Any person who shall be convicted in the municipal court of violating any provisions of this article shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than $500. Each day that any violation to this article occurs, it shall constitute a separate offense and shall be punishable hereinafter as a separate violation.
(b) Provided, however, that if upon trial of any person found guilty of a misdemeanor hereunder it shall appear to the court that the nuisance complained of as proscribed in this article is continuing, the court shall enter such order as it shall deem appropriate to cause the nuisance to be abated.
(Ord. 533, Sec. 8)

8-411. OWNERS DUTY TO KEEP BRANCHES TRIMMED. Every owner of every house, building, lot or premises in the city shall keep the shrubs, hedges, and trees situated on such property and in the parking abutting such property, trimmed so that the branches thereof over all public right-of-way, alley, sidewalk or driveways shall not be lower than 10 feet from the surface of such right-of-way, alley, sidewalk or driveway, and that such hedge shall not be higher than three feet, so as to constitute a traffic hazard. (Ord. 533, Sec. 1)

8-412. NOTICE TO OWNERS. Whenever any person, whose duty it is to keep any shrubs, hedges or trees trimmed or cut, as provided for in the preceding section, shall fail to do so, the public officer or designee shall cause notice to be served upon such person requiring the same to be done forthwith. Such notices shall:

(a) Be in writing;
(b) Particularize the violations alleged to exist or have been committed;
(c) Provide a reasonable time for correction of the violation particularized;
(d) Be addressed to and served upon the owner and/or occupant of the premises.

Provided, that such notice, shall be deemed properly served upon such owner, operator, or occupant, if a copy thereof is served upon him or her personally or if a copy thereof is sent by certified mail to his or her last known address; provided further, if the notice cannot be conveniently served by the aforesaid, service of the notice is to be made upon such person or persons by at least one publication in the official newspaper of the city, such publication to contain the conditions and reasons of notice.

If such owner, operator, or occupant, shall fail to cause such shrubs, hedges or trees to be trimmed within 15 days after the service of such notice, such owner, operator, or occupant, shall upon conviction, be guilty of a misdemeanor. (Ord. 533, Sec. 2)

8-413. REMOVAL IN PARKING. All shrubs, hedges or trees which are dead in parking areas are hereby declared to be a public nuisance and shall be removed by the owner, operator, or occupant, of the abutting property at his or her own expense. (Ord. 533, Sec. 3)

8-414. TRIMMING OR REMOVAL BY CITY. (a) In the event of a failure of an owner, operator, or occupant, to cause the trimming or removal as provided in sections 8-411 and 8-413 hereof, within the time provided by the notice set out in section 8-412 hereof, such shrubs, hedges or trees may be trimmed by the city, and the actual cost thereof charged to and collected from the owner of the property, by assessment against the property which the same exists.

(b) The public officer or designee shall give notice to the owner, operator, or occupant, by regular mail of the costs of abatement of the nuisance. The notice will state the payment of the costs is due and payable within 15 days from the billing date.

(c) If the costs remain unpaid after 15 days from the billing date, a record of the costs of abating the nuisance as herein provided shall be certified to the city clerk who shall cause such costs to be assessed against the particular lot or lots on which the violations occurred. The city clerk shall certify the assessment to the county clerk at the time other special assessments are eased for spreading on the tax rolls of Sedgwick County.

(d) Costs for the abatement of any nuisance shall be as follows:

(1) If the city agrees with a third party to abate the nuisance the costs will be the actual costs to the city;

(2) If the city employees abate the nuisance, then the costs will be an hourly change of $85 per hour for each city employee who works on the job;

(3) An administrative fee which may establish by resolution from time to time by the city council of the city.

(Ord. 533, Sec. 4)

8-415. DISTANCE FROM CORNERS AND FIRE HYDRANTS. No shrubs, hedges or trees shall be planted in the street right-of-way closer than 35 feet to any street corner, measured from the point of nearest intersecting curbs or curb lines, and no shrubs, hedges or trees shall be planted closer than 10 feet to any fire hydrant (when installed). (Ord. 533, Sec. 5)

8-416. FAILURE TO COMPLY; CRIMINAL PENALTY. (a) Any person who shall be convicted in the municipal court of violating any provisions of this article, shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than $500. Each day that any violation to this article occurs, it shall constitute an offense and shall be punishable hereinafter as a separate violation.

(b) Provided, however, that if upon trial of any person found guilty of a misdemeanor hereunder it shall appear to the court that the nuisance complained of as proscribed in this article is continuing, the court shall enter such order as it shall deem appropriate to cause the nuisance to be abated.

(Ord. 533, Sec. 6)

ARTICLE 5. MINIMUM HOUSING CODE

8-501. TITLE. This article shall be known as the "Minimum Standard for Housing and Premises Code," and will be referred to herein as "this code." (Code 2003)

8-502. GENERAL. Buildings used in whole or in part as a home or residence of a single family or person and every building used in whole or in part as a home or residence of two or more persons or families living in separate apartments and all premises, either residential or non-residential, shall conform to the requirements of this code. (Code 2003)

8-503. DECLARATION OF POLICY. The governing body declares the purpose of this code is to protect, preserve, and promote the physical and mental health of the people, investigate and control communicable diseases, regulate privately and publicly-owned structures or dwellings, and all premises for the purpose of sanitation and public health, general appearance, and protect the safety of the people and promote the general welfare by legislation which shall be applicable to all dwellings, structures and premises now in existence or hereafter constructed or developed and which legislation:

(a) Establishes minimum standards for basic equipment and facilities for light, ventilation and heating, for safety from fire, for the use and location and amount of space for human occupancy, and for safe and sanitary maintenance;

(b) Establishes standards concerning unsightly and blighted buildings and premises, both residential and non-residential structures.

(c) Determines the responsibilities of owners, operators and occupants.

(d) Provides for the administration and enforcement thereof.

(Code 2003)

8-504. DEFINITIONS. The following definitions shall apply to the enforcement of this code:

(a) Basement shall mean a portion of a building located partly underground, but having less than half its clear floor-to-ceiling height below the average grade of the adjoining ground.

(b) Cellar shall mean a portion of a building located partly or wholly underground, and having half or more than half of its clear floor-to-ceiling height below the average grade of the adjoining ground.

(c) Dwelling shall mean any building which is wholly or party used or intended to be used for living or sleeping by human occupants: provided, that temporary housing hereinafter defined shall not be regarded as a dwelling.

(d) Dwelling Unit shall mean any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used, or intended to be used for living, sleeping, cooking and eating.

(e) Habitable Dwelling shall mean any structure or part thereof that shall be used as a home or place of abode by one or more persons.

(f) Habitable Room shall mean a room designed to be used for living, sleeping, eating or cooking purposes, excluding bathrooms, toilet rooms, closets, halls and storage places, or other similar places, not used by persons for extended periods.

(g) Infestation shall mean the presence, within or around a dwelling, of insects, rodents, or other pests.

(h) Multiple Dwelling shall mean any dwelling containing more than two dwelling units.

(i) Occupant shall mean any person, over one year of age, living, sleeping, cooking, or eating in, or having actual possession of, a dwelling unit or rooming unit.

(j) Operator shall mean any person who has charge, care, owns, or has control of a premise or of a building or structure or part thereof, in which dwelling units or rooming units are let.

(k) Owner shall mean any person, firm, or corporation, who jointly or severally along with others, shall be in actual possession of, or have charge, care and control of any structure or dwelling unit or premises within the city as owner, employee, or agent of the owner, or as trustee or guardian of the estate or person of the title holder, and such person shall be deemed and taken to be the owner or owner of such property within the true intent and meaning of this code and shall be bound to comply with the provisions of this article to the same extent as the record owner and notice to any such person shall be deemed and taken to be a good and sufficient notice as if such person or persons were actually the record owner or owner of such property.

(l) Person shall mean and include any individual, firm, corporation, association or partnership.

(m) Plumbing shall mean and include all of the following supplied facilities and equipment: gas or fuel pipes, gas or fuel burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes- washing machines, catch basins, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer, gas or fuel lines.

(n) Premise shall mean any lot or land area, either residential or non-residential, not covered by a structure and which is subject to a city tax in part or in whole.

(o) Public Officer shall mean the council appointed official.

(p) Rooming House shall mean any dwelling, or that part of a dwelling containing one or more rooming units in which space is let by the owner or operator to three or more persons who are not husband and wife, son or daughter, mother or father, or sister or brother of the owner or operator.

(q) Rooming Unit shall mean any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

(r) Refuse. For the purpose of this article refuse shall include garbage, and trash.

(1) Garbage shall mean any accumulation of animal, fruit or vegetable waste matter that attends the preparation of, use of, cooking of, delivering of, or storage of meats, fish, fowl, fruit or vegetable.

(2) Trash (Combustible). For the purpose of this article combustible trash shall mean waste consisting of papers, cartons, boxes, barrels, wood and excelsior, tree branches, yard trimmings, wood furniture, bedding and leaves, or any other combustible materials.

(3) Trash (Non-Combustible). For the purpose of this article non-combustible trash shall mean waste consisting of metals, tin cans, glass, crockery, other mineral refuse and ashes and street rubbish and sweepings, dirt, sand, concrete scrap, or any other non-combustible material.

(s) Structure shall mean anything constructed or erected on the ground or attached to something having a location on the ground.

(t) Supplied shall mean paid for, furnished, or provided by or under the control of, the owner or operator.

(u) Temporary Housing shall mean any tent, trailer, or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, house or building or another structure, or to any utilities system on the same premises for more than 30 consecutive days, except when located in a mobile home court duly licensed under laws of the city.

(v) Words - Meanings. Whenever the words "dwelling," "dwelling unit," "rooming house," "rooming unit," "premises," are used in this ordinance, they shall be construed as though they were followed by the words "or any part thereof." (Code 2003)

8-505. DUTY OF OCCUPANT OR OWNER OF OCCUPIED OR UNOCCUPIED BUILDING AND ITS PREMISES OR VACANT PREMISES. (a) It shall be the duty of the owner of every occupied or unoccupied dwelling, building and premises or vacant premise, including all yards, lawns and courts to keep such property clean and free from any accumulation of filth, rubbish, garbage, or any similar matter as covered by sections 8-508:509.

(b) It shall be the duty of each occupant of a dwelling unit to keep in clean condition the portion of the property which he or she occupies and of which he or she has exclusive control, to comply with the rules and regulations, to place all garbage and refuse in proper containers. Where care of the premise is not the responsibility of the occupant then the owner is responsible for violations of this code applicable to the premise.

(c) If receptacles are not provided by the owner, then the occupant shall provide receptacles as may be necessary to contain all garbage and trash.

(d) Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his or her dwelling unit is the unit primarily infested.

(e) Notwithstanding, the foregoing provisions of this section, whenever infestation is caused by failure of the owner to maintain a dwelling in a vermin proof or reasonable insect-proof condition, extermination shall be the responsibility of the owner and operator.

(f) Whenever infestation exists in two or more of the dwelling units in any dwelling, or in the shared or public parts of any dwelling containing two or more dwelling units, extermination thereof shall be the responsibility of the owner. (Code 2003)

8-506. REGULATIONS FOR THE USE AND OCCUPANCY OF DWELLINGS. No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit, for the purpose of living, sleeping, cooking, or eating therein, which does not comply with the following requirements. The following requirements are hereby declared essential to the health and safety of the occupants of such dwelling or dwelling unit:

(a) Attached Garages or Non-dwelling Areas. All non-dwelling occupancies shall be separated from the dwelling unit by a fire resistant wall and if the dwelling

and garage are covered by a common or connecting roof, then the ceiling also must have a fire resistance rating of not less than one hour as defined in the building code.

(b) Basement or Cellar. The basement or cellar of any dwelling shall be reasonably dry and ventilated and shall be kept free from rubbish accumulation.

(c) Basement Dwelling Units. The use of basements or cellars for dwelling units is prohibited unless they comply with section 8-506(r) governing ventilation, provided however, if occupied at the time of the passage of this code and if it complies with all other provisions of this code, the public officer may approve less than the required windows, if in his or her opinion, the window area is not detrimental to the occupants.

(d) Bathing Facilities. Every dwelling unit shall contain within a room which affords privacy to a person in the room, a bathtub or shower in good working condition and properly connected to an approved water and sewer system.

(e) Boarding and Rooming Houses. No room shall be used for sleeping purposes unless the ceiling height is at least seven feet and there are at least 400 cubic feet of air space for each occupant over six years of age. For sleeping rooms with sloping ceilings, the ceiling height shall be at least seven feet over at least 50 percent of the floor area.

(1) Bathing facilities shall be provided in the form of a tub or shower for each eight occupants. Separate facilities shall be provided for each sex and plainly marked.

(2) A flush water closet shall be provided for each six occupants and shall be separated with the separate access from bathing facilities if more than four occupants are served by each. Separate facilities shall be provided for each sex and shall be plainly marked.

(f) Drainage. All courts, yards or other areas on the premises of any dwelling shall be so graded and drained that there is no pooling of the water thereon. Properly constructed wading and swimming pools and fish ponds are excepted from this section.

(g) Entrances. (1) There shall be for each dwelling unit a normally used separate access either to a hallway, stairway, or street, which is safe and in good repair.

(2) A secondary exit to the ground shall be available in case of fire through windows, porch roofs, ladders or any combination that is free of hazard or egress.

(h) Floor Area. Every dwelling unit shall contain at least 150 square feet of floor space for the first occupant thereof and at least 100 additional square feet of floor space for every additional occupant thereof. The floor space shall be calculated on the basis of total habitable room area, inside measurements. No floor space shall be included in determining habitable room area over which the ceiling is less than seven feet above the floor for the purpose of this subsection.

(i) Garbage and Trash Receptacles. Every dwelling and every dwelling unit shall be provided with such receptacles, not exceeding 32 gallon capacity, as may be necessary to contain all garbage and trash and such receptacles shall at all times be maintained in good repair.

(j) Heating. Every dwelling and every dwelling unit shall be so constructed, insulated, and maintained and be provided by owner or occupant with heating units so that it is capable or reaching an air temperature of 70 degrees Fahrenheit under ordinary winter conditions. The chimney of the dwelling or dwelling unit

shall be maintained in good order, and the owner of the approved heating equipment shall maintain it in good order and repair.

(k) Kitchen Sink. In every dwelling unit containing two or more rooms, there shall be at least one kitchen sink with public water under pressure and connected to the public sewer, or if that sewer system is not available, to a sewage disposal system approved by the city health department.

(l) Lavatory Facilities. Every dwelling unit shall contain within its walls a lavatory basin in good working condition and properly connected to an approved water and sewer system and located in the same room as the required flush water closet or as near to the room as practicable.

(m) Lighting. Every habitable room shall have a ceiling electric outlet and a duplex outlet in wall or floor, or at least two wall or floor outlets.

(n) Lighting of Toilets and Bathrooms. Every toilet and every bathroom in every dwelling shall have at least one electric light in either the ceiling or on the wall.

(o) Plumbing. All plumbing, water closets and other plumbing fixtures in every dwelling or dwelling unit shall be maintained in good working order.

(p) Privies. All pit privies, privy vaults, "dry hopper" sewer-connected privies and frost-proof closets are hereby declared to be a public nuisance.

(q) Toilet Facilities. There shall be at least one flush water closet in good working condition for each dwelling unit, which flush water closet shall be located within the dwelling and in a room which affords privacy.

(r) Ventilation. Every habitable room in a dwelling or dwelling unit shall contain a window or windows openable directly to the outside air and the total area of such window or windows shall be not less than five percent of the floor area of such room. An approved system of mechanical ventilation or air conditioning may be used in lieu of openable windows. Such system shall be capable of providing not less than four air changes per hour, except that in toilet compartments such system shall provide a complete air change every five minutes and be automatically put in operation when the toilet compartment light is in the "on" position.

(s) Water Heating Facilities. Every dwelling shall have supplied water heating facilities which are installed in an approved manner and are maintained and operated in a safe and good working condition and are properly connected with the hot water lines to the kitchen sink, lavatory and bathtub or shower.

(t) Windows and Doors. Every window and exterior door shall be reasonably weather-tight, lockable, and rodent-proof and shall be kept in good working condition and good repair.

(Code 2003)

8-507. MAINTENANCE AND REPAIR; DWELLINGS. Every dwelling and every part thereof shall be maintained in good repair by the owner or agent and be fit for human habitation. The roof shall be maintained so as not to leak and all rainwater shall be drained therefrom so as not to cause dampness in the walls or ceilings. All floors, stairways, doors, porches, windows, skylights, chimneys, toilets, sinks, walls, and ceilings shall be kept in good repair and usable condition. (Code 2003)

8-508. DESIGNATION OF UNFIT DWELLINGS. The designation of dwellings or dwelling units as unfit for human habitation and placarding of such unfit dwellings or dwelling units shall be carried out in compliance with the following requirements:

(a) The Public Officer may determine, or five citizens may petition in writing, that any dwelling unit is unfit for human use or habitation if he, she or they find that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants of such buildings or other residents of the neighborhood, or which shall have a blighting influence on properties in the area.

(b) Such Conditions may include the following without limitation:

(1) Defects therein increasing the hazards of fire, accident, or other calamities.

(2) Lack of:

(i) Adequate ventilation.

(ii) Light.

(iii) Cleanliness.

(iv) Sanitary facilities.

(3) Dilapidation.

(4) Disrepair.

(5) Structural defects.

(6) Overcrowding.

(7) Inadequate ingress and egress.

(8) Unsightly appearance that constitute a blight to the adjoining property, the neighborhood or the city.

(9) Air Pollution.

(c) Placarding - Order to Vacate. Any dwelling or dwelling unit condemned as unfit for human habitation, and so designated and placarded by the public officer shall be vacated within a reasonable time as so ordered.

(d) Notice of Violation. Procedures as outlined in section 8-512 are applicable hereto.

(e) Compliance Required before Reoccupancy. No dwelling or dwelling unit which has been condemned and placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from, and such placard is removed by the public officer.

(1) The public officer shall remove such placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated.

(2) It shall be unlawful for anyone to let, lease, occupy or permit the occupancy, whether for a consideration or not, of any dwelling so posted and any violation of this provision shall constitute a public offense within the meaning of this code.

(3) It shall be unlawful for any person to deface or remove the placard from any dwelling or dwelling unit which has been condemned as unfit for human habitation and placarded as such, except the public officer as herein provided, and any violation of this provision shall constitute a public offense within the meaning of this code.

(Code 2003)

8-509. DESIGNATION OF BLIGHTED PREMISES (RESIDENTIAL AND NON-RESIDENTIAL). The designation of unsightly and blighted premises and elimination thereof shall be carried out in compliance with the following requirements.

(a) The Public Officer may determine, or five citizens may petition in writing, that if the appearance of a premise is not commensurate with the character of the

properties in the neighborhood or otherwise constitutes a blight to the adjoining property or the neighborhood or the city for such reasons as, but not limited to:

(1) Dead trees or other unsightly natural growth.

(2) Unsightly stored or parked material, equipment, supplies, machinery, trucks or automobiles or parts thereof; vermin infestation, inadequate drainage.

(3) Violation of any other law or regulations relating to the use of land and the use and occupancy of the buildings and improvements.

(b) Notice of Violation. Procedures as outlined in section 8-512 are applicable hereto.

(Code 2003)

8-510. DESIGNATION OF BLIGHTED BUILDINGS AND PREMISES (NON-RESIDENTIAL). (a) Certain Blighted Conditions covered in sections 8-508:509 concerning buildings and premises which are on the tax roll of the city are applicable to all non-residential buildings and premises.

(b) Notice of Violation. Procedures of notification shall follow those prescribed in section 8-512.

(Code 2003)

8-511. INSPECTION OF BUILDINGS AND STRUCTURES, AND PREMISES. (a) For the Purpose of Determining Compliance with the provisions of this code, the public officer or his or her authorized representative is hereby authorized to make inspections to determine the condition, use, and occupancy of dwellings, dwelling units, rooming units, and the premises upon which the same are located. This requirement is applicable to existing dwellings or buildings.

(b) The Public Officer is not limited by the conditions in the above paragraph (a) where new construction or vacant premises are involved and may make such inspections at any appropriate time.

(c) The Owner, Operator, and Occupant of every dwelling, dwelling unit, and rooming unit shall give the public officer, or his or her authorized representative, during reasonable hours, free access to such dwelling, dwelling unit, and rooming unit, and its premises, for the purpose of such inspection, examination and survey after identification by proper credentials.

(d) Every Occupant of a dwelling shall give the owner thereof, or his or her authorized agent or employee, access to any part of such dwelling, or its premises, at all reasonable times, for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this code or with any rule or regulation adopted and promulgated, or any order issued pursuant to the provisions of this code.

(Code 2003)

8-512. NOTICE OF VIOLATIONS; PROCEDURES. (a) Informal Discussion. Whenever the public officer or his or her authorized representative determines that there has been a violation of any provision of this code, the public officer will arrange with the alleged violator for an informal discussion of violations, and whether repair and correction is justified.

(b) Formal Hearing. If a satisfactory solution to the violations, either by correction, demolition or removal, is not forthcoming, then a legal notice of a formal hearing will be issued according to the following procedures:

(1) Shall be in writing.

(2) Shall list the violations alleged to exist or to have been committed.

(3) Shall provide a reasonable time, but not less than 30 days in any event for the correction of the violations particularized.

(4) Shall be addressed to and served upon the owner of the property, the operator of the dwelling, and the occupant of the dwelling unit or the rooming unit concerned, if the occupant is or may be responsible for violation.

(5) If one or more persons whom the notice is addressed cannot be found or served after diligent effort to do so, service may be made upon such person or persons by posting a notice in a conspicuous place in or about the dwelling affected by the notice, in which event the public officer or his or her authorized representative shall include in the record a statement as to why such posting was necessary.

(6) Delivery shall be by certified mail, return receipt requested, or by personal service. If service is made by certified mail, the public officer or his or her authorized representative shall include in the record a verified statement giving details regarding the mailing.

(Code 2003)

8-513. PUBLIC OFFICER: AUTHORITY. For the purpose of protecting the city against unsightly or blighted premises, also the health, welfare, and safety of the inhabitants of dwellings or dwelling units, the public officer referred heretofore is hereby authorized, with the consent and prior knowledge of the governing body, to enforce provisions of this code and of other laws which regulate or set standards affecting buildings and premises.

(Code 2003)

8-514. GOVERNING BODY; AUTHORITY. The governing body is hereby authorized:

(a) To Informally Review all alleged violations as provided in section 8-512(a) prior to notification prescribed in section 8-512(b).

(b) To Take Action as prescribed in section 8-512(b).

(c) To Hear Appeals where there is opposition to any order, requirement, decision or determination by the public officer in enforcement of this code as outlined in section 8-518.

(d) Discretionary Authority may be exercised in specific cases where variance from the terms of the code as:

(1) Will not adversely affect the public health, safety or welfare of inhabitants of the city.

(2) Is in harmony with the spirit of this code.

(3) Where literal enforcement of the code will result in unnecessary hardship.

(Code 2003)

8-515. ORDER TO CORRECT AND/OR REPAIR, REMOVE OR DEMOLISH. At the time of the placarding and order to vacate specified by section 8-508(c) hereof, the public officer shall also issue and cause to be served upon the owner a notice advising of the option of removal or demolition in lieu of correction and/or repair following the procedures as outlined in section 8-512. (Code 2003)

8-516. DEMOLITION BY PUBLIC OFFICER; PROCEDURE AND COSTS. (a) Failure to Comply with the order under section 8-515 hereof for the alteration or improvement of such structure, the public officer, with the consent and prior knowledge of the governing body, may cause such condemned structure to be removed or demolished and the premises improved to eliminate the conditions outlined in section 8-509 of the code.

(b) The Cost of Demolition by a Public Officer shall be a lien upon the property upon which the cost was incurred and such lien, including as a part thereof an allowance of his or her costs and necessary attorney's fees, may be foreclosed in judicial proceedings in the manner provided or authorized by law for loans secured by liens on real property or shall be assessed as a special assessment upon 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 aforesaid costs and the county clerk shall extend the same on the tax rolls against the lot or parcel of land.

(c) If the Structure is Removed or Demolished by the Public Officer he or she shall offer for bids and sell the structure or the materials of such structure. The proceeds of such sale shall be credited against the cost of the removal or demolition and, if there is any balance remaining, it shall be paid to the parties entitled thereto after deduction of costs or judicial proceedings, if any, including the necessary attorney's fees incurred therein, as determined by the court, if involved.
(Code 2003)

8-517. CONFLICT OF LAWS; EFFECT OR PARTIAL INVALIDITY. (a) Conflicts between the provisions of this code and with a provision of any zoning, building, fire, safety, or health ordinance or code of the city, existing on the effective date of this article, the provision shall prevail which establishes the higher standard.

(b) Conflicts between this article with a provision of any other ordinance or code of the city existing on the effective date of this article which establishes a lower standard, the provisions of this article shall be deemed to prevail and such other laws or codes are hereby declared to be repealed to the extent that they may be found in conflict with this code.
(Code 2003)

8-518. GOVERNING BODY; APPEALS. (a) Any person, firm, or corporation considering themselves aggrieved by the decision of the public officer and who desires to present a formal protest to the governing body shall in writing, request a hearing before the governing body within 10 days after receiving notice of the decision from the public officer, as provided in section 8-512(b). Such protest and request for a hearing shall be filed with the office of the city clerk.

(b) Upon receipt of a protest and request for a hearing, the city clerk shall notify in writing the governing body of such appeal.

(c) The governing body shall, within 30 days of receipt of protest and request for a hearing, determine a date for the hearing.

(d) Notice of the date for the hearing shall be sent to the appellant at least 10 days before the hearing.

(e) Except where an immediate hazard exists as described in section 8-612 of this code, the filing of a protest and request for a hearing before the governing body as specified in subsection (a) shall operate as a stay of the enforcement of

the public officer's order until such time as the governing body has reached a decision on the matter.
(Code 2003)

8-519. RIGHT OF PETITION. After exhausting the remedy provided in section 8-518, any person aggrieved by an order issued by the public officer and approved by the governing body after a hearing on the matter, may within 30 days from the date which the order became final petition the district court of the county in which the property is located to restrain the public officer from carrying out the provisions of the order. (Code 2003)

ARTICLE 6. RODENT CONTROL

8-601. DEFINITIONS. For the purposes of this article, the following words and phrases shall have the following meanings:

(a) Building. Any structure, whether public or private, that is adapted for occupancy as a residence, the transaction of business, the rendering of professional services, amusement, the display, sale or storage of goods, wares or merchandise or the performance of work or labor, including office buildings, public buildings, stores, theaters, markets, restaurants, workshops and all other houses, sheds and other structures on the premises used for business purposes.

(b) Occupant. The person that has the use of, controls or occupies any business building or any portion thereof, whether owner or tenant. In the case of vacant business buildings or any vacant portion of a business building, the owner, agent or other person having custody of the building shall have the responsibilities of an occupant of a building.

(c) Owner. The owner of any building or structure, whether individual, firm, partnership or corporation.

(d) Rat harborage. Any condition which provides shelter or protection for rats, thus favoring their multiplication and continued existence in, under or outside a structure of any kind.

(e) Rat-stoppage. A form of rat-proofing to prevent the ingress of rats into buildings from the exterior or from one building to another, consisting essentially of the closing of all openings in the exterior walls, ground or first floors, basements, roofs and foundations, that may be reached by rats from the ground by climbing or by burrowing, with material or equipment impervious to rat-gnawing.
(Code 2003)

8-602. BUILDING MAINTENANCE. All buildings and structures located within the present or future boundaries of the city shall be rat-stopped, freed of rats and maintained in a rat-stopped and rat-free condition. (Ord. 539, Sec. 3; Code 2003)

8-603. NOTICE TO RAT-STOP; WHEN CITY TO DO WORK. Upon receipt of written notice from the governing body, the owner of any building or structure specified therein shall take immediate measures for the rat-stoppage of such building or structure. The work shall be completed in the time specified in the written notice, which shall be within 15 days, or within the time of any written extension thereof that may have been granted by the governing body. (Ord. 539, Sec. 3; Code 2003)

8-604. FAILURE TO COMPLY. If the owner fails to comply with such written notice or extension, then the governing body is authorized to take such action as may be necessary to completely rat-stop the building or structure at the expense of the owner, and the city clerk shall submit bills for the expense thereof to the owner of the building or structure. If the bills are not paid within 60 days, the city clerk shall certify the amount due to the city treasurer and the charge shall be a lien against the property where the work has been done, and the owner shall be promptly billed therefor. The expense thereof shall include the cost of labor, materials, equipment and any other actual expense necessary for rat-stoppage. (Code 2003)

8-605. REPLACE RAT-STOPPAGE. It shall be unlawful for any occupant, owner, contractor, public utility company, plumber or any other person to remove the rat-stoppage from any building or structure for any purpose and fail to restore the same in a satisfactory condition or to make any new openings that are not closed or sealed against the entrance of rats. (Code 2003)

8-606. NOTICE TO ERADICATE RATS. Whenever the governing body notifies in writing the owner of any building or structure theretofore rat-stopped as hereinabove defined, that there is evidence of rat infestation of the building or structure, the owner shall immediately institute appropriate measures for freeing the premises so occupied of all rats. Unless suitable measures for freeing the building or structure of rats are instituted within five days after the receipt of notice, and unless continually maintained in a satisfactory manner, the city is hereby authorized to free the building or structure of rats at the expense of the owner thereof and the city clerk shall submit bills for the expense thereof to the owner of the building or structure and if the same are not paid, the city clerk shall certify the amount due from the owner to the city treasurer, and the owner shall be promptly billed therefor. The expense thereof shall include the cost of labor, materials, equipment and any other actual expense necessary for the eradication measures. (Code 2003)

8-607. CONDITIONS CONDUCIVE TO HARBORAGE OF RATS. (a) All food and feed kept within the city for feeding animals shall be kept and stored in rat-free and rat-proof containers, compartments, or rooms unless kept in a rat-stopped building.

(b) It shall be unlawful for any person to place, leave, dump or permit to accumulate any garbage or trash in any building or premises so that the same shall afford food and harborage for rats.

(c) It shall be unlawful for any person to accumulate or to permit the accumulation on any premises or on any open lot any lumber, boxes, barrels, bricks, stone or similar materials that may be permitted to remain thereon and which are rat harborages, unless the same shall be placed on open racks that are elevated not less than 12 inches above the ground, evenly piled or stacked.

(d) Whenever conditions inside or under any building or structure provide such extensive harborage for rats that the health department deems it necessary to eliminate such harborage, he or she may require the owner to install suitable cement floors in basements or to replace wooden first or ground floors or require the owner to correct such other interior rat harborage as may be necessary in

order to facilitate the eradication of rats in a reasonable time and thereby to reduce the cost of such eradication.
(Code 2003)

8-608. INSPECTIONS. The public officer is empowered to make such inspections and re-inspections of the interior and exterior of any building or structure as in his or her opinion may be necessary to determine full compliance with this article. (Code 2003)

8-609. RESPONSIBILITY FOR EXTERMINATION OF INSECTS, RODENTS, AND OTHER VERMIN. Every occupant of a single establishment shall be responsible for the extermination of any insects, rodents, or other vermin therein or upon the premises. Wherever two or more occupants are in the same building, the owner or operator of the building shall be responsible for such extermination; notwithstanding the foregoing, whenever infestation is caused mainly by improper housekeeping, it shall be a joint responsibility of the owner and occupants to effect such extermination. (Code 2003)

ARTICLE 7. SALVAGE YARDS

8-701. SALVAGE YARDS. All salvage yards shall be located in accordance with city zoning regulations. All rackable salvage materials shall be stored on racks or in bins with at least 18 inches of clearance between the bottom of the rack or bin and the ground and a width of 48 inches or less. No rack or bin shall be closer than 48 inches to a wall, fence, or adjacent bin or rack. Nonrackable materials shall be stored with an exposed perimeter or in a manner specified by the public officer to prevent rodent harborage and breeding. All ground surfaces except lawn areas shall be kept free of all grasses and weeds using soil sterilants, herbicides, and/or other effective methods. An effective, continuous rodent poisoning using anticoagulant rodenticides or other effective methods shall be maintained at all salvage yards. Salvage yards that initiate operations subsequent to passage of this article shall submit a site screening plan to the public officer for approval and shall implement the approved plan prior to occupancy. Any person not complying with the provision of this section shall be ineligible to receive an occupancy permit to conduct or carry on his or her business. (Code 2003)

8-702. DEFINITIONS. Salvage Yards means any premises used for:

(a) Sale and resale of used merchandise;

(b) The disassembly of wrecked or used automobiles for the reuse and/or sale of automobile parts; or

(c) The storage and/or resale of various kinds of metal and/or used building materials.

(Code 2003)

8-703. STORAGE OF SALVAGE AND JUNK MATERIALS. No owner or occupant of any premises shall store salvage material within the city, unless specifically authorized by the provisions of the city's zoning regulations. No owner or occupant of any premises in the city shall store junk materials. The owner and/or occupant shall keep premises free of litter, refuse, salvage material and junk;

provided, that building materials to be used within 90 days for construction on the premises, if properly authorized by a current building and/or zoning permit, may be kept if stored at least 18 inches off the ground and not closer than 48 inches to a wall or fence provided the public officer may approve a lesser distance. (Code 2003)

ARTICLE 8. INSURANCE PROCEEDS FUND

8-801. SCOPE AND APPLICATION. The city is hereby authorized to utilize the procedures established by K.S.A. 40-3901 *et seq.*, whereby no insurance company shall pay a claim of a named insured for loss or damage to any building or other structure located within the city, arising out of any fire, explosion, or windstorm, where the amount recoverable for the loss or damage to the building or other structure under all policies is in excess of 75 percent of the face value of the policy covering such building or other insured structure, unless there is compliance with the procedures set out in this article. (Code 2003)

8-802. LIEN CREATED. The governing body of the city hereby creates a lien in favor of the city on the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure located within the city, caused by or arising out of any fire, explosion, or windstorm, where the amount recoverable for all the loss or damage to the building or other structure under all policies is in excess of 75 percent of the face value of the policy(s) covering such building or other insured structure. The lien arises upon any unpaid tax, special ad valorem levy, or any other charge imposed upon real property by or on behalf of the city which is an encumbrance on real property, whether or not evidenced by written instrument, or such tax, levy, assessment, expense or other charge that has remained undischarged for at least one year prior to the filing of a proof of loss. (Code 2003)

8-803. SAME; ENCUMBRANCES. Prior to final settlement on any claim covered by section 8-802, the insurer or insurers shall contact the county treasurer, Sedgwick County, Kansas, to determine whether any such encumbrances are presently in existence. If the same are found to exist, the insurer or insurers shall execute and transmit in an amount equal to that owing under the encumbrances a draft payable to the county treasurer, Sedgwick County, Kansas. (Code 2003)

8-804. SAME; PRO RATA BASIS. Such transfer of proceeds shall be on a pro rata basis by all insurance companies insuring the building or other structure. (Code 2003)

8-805. PROCEDURE. (a) When final settlement on a covered claim has been agreed to or arrived at between the named insured or insureds and the company or companies, and the final settlement exceeds 75 percent of the face value of the policy covering any building or other insured structure, and when all amounts due the holder of a first real estate mortgage against the building or other structure, pursuant to the terms of the policy and endorsements thereto, shall have been paid, the insurance company or companies shall execute a draft payable to the city treasurer in an amount equal to the sum of 15 percent of the covered claim

payment, unless the chief building inspector of the city has issued a certificate to the insurance company or companies that the insured has removed the damaged building or other structure, as well as all associated debris, or repaired, rebuilt, or otherwise made the premises safe and secure.

(b) Such transfer of funds shall be on a pro rata basis by all companies insuring the building or other structure. Policy proceeds remaining after the transfer to the city shall be disbursed in accordance with the policy terms.

(c) Upon the transfer of the funds as required by subsection (a) of this section, the insurance company shall provide the city with the name and address of the named insured or insureds, the total insurance coverage applicable to said building or other structure, and the amount of the final settlement agreed to or arrived at between the insurance company or companies and the insured or insureds, whereupon the chief building inspector shall contact the named insured or insureds by certified mail, return receipt requested, notifying them that said insurance proceeds have been received by the city and apprise them of the procedures to be followed under this article.
(Code 2003)

8-806. FUND CREATED; DEPOSIT OF MONEYS. The city treasurer is hereby authorized and shall create a fund to be known as the "Insurance Proceeds Fund." All moneys received by the city treasurer as provided for by this article shall be placed in said fund and deposited in an interest-bearing account. (Code 2003)

8-807. BUILDING INSPECTOR; INVESTIGATION, REMOVAL OF STRUCTURE. (a) Upon receipt of moneys as provided for by this article, the city treasurer shall immediately notify the chief building inspector of said receipt, and transmit all documentation received from the insurance company or companies to the chief building inspector.

(b) Within 20 days of the receipt of said moneys, the chief building inspector shall determine, after prior investigation, whether the city shall instigate proceedings under the provisions of K.S.A. 12-1750 *et seq.*, as amended.

(c) Prior to the expiration of the 20 days established by subsection (b) of this section, the chief building inspector shall notify the city treasurer whether he or she intends to initiate proceedings under K.S.A. 12-1750 *et seq.*, as amended.

(d) If the chief building inspector has determined that proceedings under K.S.A. 12-1750 *et seq.*, as amended shall be initiated, he or she will do so immediately but no later than 30 days after receipt of the moneys by the city treasurer.

(e) Upon notification to the city treasurer by the chief building inspector that no proceedings shall be initiated under K.S.A. 12-1750 *et seq.*, as amended, the city treasurer shall return all such moneys received, plus accrued interest, to the insured or insureds as identified in the communication from the insurance company or companies. Such return shall be accomplished within 30 days of the receipt of the moneys from the insurance company or companies. (Code 2003)

8-808. REMOVAL OF STRUCTURE; EXCESS MONEYS. If the chief building inspector has proceeded under the provisions of K.S.A. 12-1750 *et seq.*, as amended, all moneys in excess of that which is ultimately necessary to comply with the provisions for the removal of the building or structure, less salvage value, if any, shall be paid to the insured. (Code 2003)

8-809. SAME; DISPOSITION OF FUNDS. If the chief building inspector, with regard to a building or other structure damaged by fire, explosion, or windstorm, determines that it is necessary to act under K.S.A. 12-1756, any proceeds received by the city treasurer under the authority of section 8-805(a) relating to that building or other structure shall be used to reimburse the city for any expenses incurred by the city in proceeding under K.S.A. 12-1756. Upon reimbursement from the insurance proceeds, the chief building inspector shall immediately effect the release of the lien resulting therefrom. Should the expenses incurred by the city exceed the insurance proceeds paid over to the city treasurer under section 8-805(a), the chief building inspector shall publish a new lien as authorized by K.S.A. 12-1756, in an amount equal to such excess expenses incurred. (Code 2003)

8-810. EFFECT UPON INSURANCE POLICIES. This article shall not make the city a party to any insurance contract, nor is the insurer liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy. (Code 2003)

8-811. INSURERS; LIABILITY. Insurers complying with this article or attempting in good faith to comply with this article shall be immune from civil and criminal liability and such action shall not be deemed in violation of K.S.A. 40-2404 and any amendments thereto, including withholding payment of any insurance proceeds pursuant to this article, or releasing or disclosing any information pursuant to this article. (Code 2003)

ARTICLE 9. SMOKING IN PUBLIC PLACES

8-901. DEFINITIONS. The following words and phrases, whenever used in this Article, shall be construed as defined in this Section 8-901 of the Code:

(a) **"Business(es)"** means any sole proprietorship, partnership, joint venture, corporation or other business entity formed for profit-making purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural or other professional services are delivered.

(b) **"City"** means the City of Maize, Kansas.

(c) **"Employee(s)"** means any person who is employed by an employer in consideration for direct or indirect monetary wages or profit, and any person who volunteers his or her services for a non-profit entity.

(d) **"Employer"** means any person, partnership, corporation, including a municipal corporation, or a non-profit entity, which employs the service of one (1) or more individual persons.

(e) **"Enclosed Area"** means all space between the floor and ceiling which is enclosed on all sides by solid Walls or windows (exclusive of doors or passageways) which extend from the floor to the ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid, "office landscaping" or similar structure.

For the purpose of this Article, the following shall NOT be considered an Enclosed Area:

(1) Rooms or areas enclosed by Walls or windows having neither a ceiling nor a roof and which are completely open to the elements and weather at all times;

(2) Rooms or areas enclosed by Walls or windows and a roof or ceiling, having an opening of at least twenty percent (20%) of the total perimeter of Wall area completely and permanently open to the elements and weather.

(f) **"Food Service Establishment"** means any place in which food is served or is prepared for sale or service on the premises or elsewhere. Such terms shall include, but not be limited to, fixed or mobile restaurant, coffee shop, cafeteria, short-order café, luncheonette, grill, tea room, sandwich shop, soda fountain, tavern, private club, roadside kitchen, commissary and other private, public or non-profit organization or institution routinely serving food, or any other eating or drinking establishment or operation where food is served or provided for the public with or without charge.

(g) **"Licensed Premises"** shall mean any premises where alcoholic liquor or cereal malt beverages, or both, by individual drink as defined by K.S.A. Chapter 41, and amendments thereto, is served or provided for consumption or use on the premises with or without charge. Such term shall include drinking establishment, Class A Private Clubs, Class B Private Clubs, or cereal malt beverage retailers, all as defined by K.S.A. Chapter 41 and amendments thereto.

(h) **"Place(s) of Employment"** means any Enclosed Area under the control of a public or private employer which Employees frequent during the course of employment, including, but not limited to, work areas, employee lounges and restrooms, conference rooms and classrooms, employee cafeterias and hallways. A private residence is not a Place of Employment unless it is used as a childcare, adult day care or health care facility.

(i) **"Private Place(s)"** means any Enclosed Area to which the public is not invited or in which the public is not permitted, including, but not limited to, personal residences or personal motor vehicles. A privately owned Business, open to the public, is not a Private Place.

(j) **"Public Place(s)"** means any Enclosed Area to which the public is invited or in which the public is permitted, including, but not limited to:

(1) elevators;

(2) restrooms, lobbies, reception areas, hallways and any other common use areas;

(3) buses, bus terminals, taxicabs, train stations, airports and other facilities and means of public transit under the authority of the City, as well as ticket, boarding and waiting areas of public transit depots;

(4) vehicle sales and/or service facilities, including service stations;

(5) retail stores;

(6) all areas available to and customarily used by the general public in all Business and non-profit entities patronized by the public, including, but not limited to, attorneys' offices and other offices, banks, Laundromats, hotels and motels;

(7) Food Service Establishments and Licensed Premises, excluding areas of a Food Service Establishment or Licensed Premises that are not enclosed, such as patios, outdoor dining areas and courtyards;

(8) galleries, libraries and museums;

(9) any facility which is primarily used for exhibiting any motion picture, stage, drama, lecture, musical recital or other similar performance, except that a performer may smoke when smoking is a part of the stage production;

(10) sports arenas or convention halls, including bowling facilities;

(11) every room, chamber, place of meeting or public assembly, including school buildings under the control of any board, council, commission, committee, including joint committees, or agency of the City or any political subdivision of the state during such time as a public meeting is in progress, to the extent such place is subject to the jurisdiction of the City;

(12) waiting rooms, hallways, wards, private and semi-private rooms of health facilities, including, but not limited to, hospitals, clinics, physical therapy facilities, doctors' offices and dentists' offices;

(13) lobbies, hallways and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes and other multiple-unit residential facilities;

(14) polling places;

(15) private clubs and fraternal organization facilities;

(16) drinking establishments and taverns.

(k) **"Retail Tobacco Store(s)"** means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental;

(l) **"Smoking"** means possession of a cigarette, cigar or pipe partially or wholly consisting of or containing burning vegetation, or possession of any other device containing burning vegetation that is used for the introduction of smoke from the burning vegetation into the human body. For the purpose of this definition, the term vegetation includes, but is not limited to, tobacco, but does not include any controlled substance listed in K.S.A. 65-4105 through K.S.A. 65-4113, inclusive, and amendments thereto;

(m) **"Sports Arena"** means sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller or ice rinks, bowling alleys or other similar places where members of the general public assemble either to engage in physical exercise, participate in athletic competition or witness sports events; and,

(n) **"Wall"** means a side of a room, building or structure connecting the floor and ceiling or foundation and roof, including temporary, moveable, and retractable sides.

8-902. PROHIBITION OF SMOKING IN PUBLIC PLACES. It shall be unlawful to smoke in an Enclosed Area within Public Places within the City.

8-903. PLACES OF EMPLOYMENT. (a) An Employer may permit persons to smoke in Enclosed Areas in Places of Employment that are not Public Places; provided, however, smoking shall be prohibited in Enclosed Areas within a Food Service Establishment where food is being prepared.

(b) Employers will post "no smoking" signs in compliance with Section 8-906 of the Code of the City in Enclosed Areas in Places of Employment.

(c) It shall be unlawful to smoke in an Enclosed Area in a Place of Employment where a sign in compliance with Section 8-906 of the Code of the City has been posted.

8-904. SMOKING UNLAWFUL ON CITY OWNED PROPERTY OR IN FACILITIES OR IN EQUIPMENT. It shall be unlawful to smoke on any property, in any facility or in any equipment owned and/or operated by the City.

8-905. WHERE SMOKING IS NOT REGULATED; PRIVATE AND PUBLIC. Notwithstanding any other provision of this Article to the contrary, the following areas shall not be subject to the smoking restrictions of this Article:

(a) private residences, except when used as a childcare, adult day care or health care facility;

(b) no more than twenty-five percent (25%) of hotel and motel rooms rented to guests;

(c) Retail Tobacco Stores;

(d) outdoor Places of Employment;

(e) Private Places.

8-906. POSTING OF SIGNS. (a) The owner, manager or other person having control of an Enclosed Area where smoking is prohibited by this Article shall have a sign clearly stating that smoking is prohibited conspicuously posted at each entrance and within the building or other areas where smoking is prohibited.

(b) "No smoking" signs shall have lettering of not less than one inch (1") in height. The international "No smoking" symbol may also be used (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with red bar across it).

8-907. PUBLIC HEALTH EDUCATION. The City shall promote the purpose and requirements of this Article to the public affected by it and guide owners, operators and managers in their compliance with it. Such promotion may include publication of a brochure for affected Businesses and individuals explaining the provisions of this Article.

8-908. ENFORCEMENT. The City Police Department and/or other City officials and/or other authorized inspectors shall inspect Businesses within the City to ensure compliance with this Article.

8-909. VIOLATIONS AND PENALTIES. (a) It shall be unlawful for any person who owns, manages, operates or otherwise controls any Enclosed Area where smoking is prohibited under this Article to allow smoking to occur when such person:

(1) has knowledge that smoking is occurring; and,

(2) acquiesces to the smoking.

(b) It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this Article.

(c) Any person who violates any provision of this Article shall be guilty of a misdemeanor, punishable by:

(1) a fine not exceeding One Hundred Dollars ($100.00) for the first violation;

(2) a fine not exceeding Two Hundred Dollars ($200.00) for the second violation within a one (1) year period of the first violation;

(3) A fine not exceeding Five Hundred Dollars ($500.00) for the third violation within a one (1) year period of the first violation.

For the purpose of this subsection, the number of violations within a year shall be measured by the date the smoking violations occur.

8-910. SEVERABILITY. If any provision, clause, sentence or paragraph of this Article or the application thereof to any person or circumstances shall be held as invalid, such invalidity shall not affect the other provisions of this Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are declared to be severable.
(Ord. 762)

ARTICLE 10. STORMWATER POLLUTION PREVENTION.

8-1001. GENERAL PROVISIONS. (a) PURPOSES. The purpose and objective of this Article are as follows:

(1) to maintain and improve the quality of surface water and groundwater within the City;

(2) to prevent the discharge of contaminated stormwater runoff from industrial, commercial, residential, and construction sites into the municipal separate storm sewer system (MS4) and natural waters within the City;

(3) to promote public awareness of the hazards involved in the improper discharge of hazardous substances, petroleum products, household hazardous waste, industrial waste, sediment from construction sites, pesticides, herbicides, fertilizers and other contaminants into the storm sewers of the City;

(4) to encourage recycling of used motor oil and safe disposal of other hazardous consumer products;

(5) to facilitate compliance with state and federal standards and permits by owners of industrial and construction sites within the City; and

(6) to enable the City to comply with all federal and state laws and regulations applicable to its NPDES permit for stormwater discharges.

(b) ADMINISTRATION. Except as otherwise provided herein, the Supervisor or his appointed representative shall administer, implement, and enforce the provisions of this Article.

(c) ABBREVIATIONS. The following abbreviations when used in this Article shall have the designated meanings:

(1) BMP – best management practices
(2) CFR – Code of Federal Regulations
(3) EPA – U.S. Environmental Protection Agency
(4) HHW – hazardous household waste
(5) mg/l – milligrams per liter
(6) MS4 – municipal separate storm sewer system
(7) NOI – notice of intent
(8) NOT – notice of termination
(9) NPDES – National Pollutant Discharge Elimination System
(10) PST – petroleum storage tank
(11) SWP3 – stormwater pollution prevention plan
(12) USC – United States Code

(d) DEFINITIONS. Unless a provision explicitly states otherwise, the following terms and phrases, as used in this Article, shall have the meanings hereinafter designated.

(1) **"Best Management Practices" (BMP)** means schedule of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce the pollution of the waters of the United States or the City's MS4. BMP also include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal or drainage from raw material storage areas. The BMP required in this Article will be sufficient to prevent or reduce the likelihood of pollutants entering storm sewers, ditches or ponds.

(2) **"City"** means the City of Maize, Kansas.

(3) **"City Administrator"** means the City Administrator of the City.

(4) **"Commencement of construction"** means the disturbance of soils associated with the clearing, grading or excavating activities or other construction activities.

(5) **"Commercial"** means pertaining to any business, trade, industry or other activity engaged in for profit.

(6) **"Construction general permit."** See "Kansas General Permit for Stormwater Discharge from Construction Sites."

(7) **"Contractor"** means any person or firm performing construction work at a construction site, including any general contractor and subcontractors. It also includes, but is not limited to, earthwork, paving, building, plumbing, mechanical, electrical, landscaping contractors and material suppliers delivering materials to the site.

(8) **"Discharge"** means any addition or introduction of any pollutant, stormwater or other substance whatsoever into the municipal separate storm sewer system (MS4) or into waters of the United States.

(9) **"Discharger"** means any person who causes, allows, permits or is otherwise responsible for a discharge, including, without limitation, any owner of a construction site or industrial facility.

(10) **"Domestic sewage"** means human excrement, gray water (from home clothes washing, bathing, showers, dishwashing and food preparation), other wastewater from household drains, and waterborne waste normally discharged from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories and institutions, that is free from industrial waste.

(11) **"Earthwork"** means the disturbance of soils on a site associated with clearing, grading or excavation activities.

(12) **"Environmental Protection Agency" (EPA)** means the United States Environmental Protection Agency, the regional office thereof, any federal department, agency or commission that may succeed to the authority of the EPA and any duly authorized official of EPA or such successor agency.

(13) **"Extremely hazardous substance"** means any substance listed in the appendices to 40 CFR Part 355, Emergency Planning and Notification.

(14) **"Facility"** means any building, structure, installation, process or activity from which there is or may be a discharge of a pollutant.

(15) **"Fertilizer"** means a substance or compound that contains an essential plant nutrient element in a form available to plants and is used primarily

for its essential plant nutrient element content in promoting or stimulating growth of a plant or improving the quality of a crop or a mixture of two or more fertilizers.

(16) **"Final stabilization"** means the status when all soil-disturbing activities at a site have been completed. This would establish a uniform perennial vegetative cover with a density of seventy percent (70%) coverage for unpaved areas and those not covered by permanent structures or equivalent permanent stabilization measures (by employing riprap, gabions, or geotextiles).

(17) **"Fire protection water"** means any water, and any substances or materials contained therein, used by any person to control or extinguish a fire or to inspect or test fire equipment.

(18) **"Garbage"** means putrescible animal and vegetable waste materials from the handling, preparation, cooking or consumption of food, including waste materials from markets, storage facilities and the handling and sale of produce and other food products.

(19) **"Harmful quantity"** means the amount of any substance that will cause a violation of a State Water Quality Standard or any adverse impact to the City's drainage system.

(20) **"Hazardous household waste" (HHW)** means any material generated in a household (including single and multiple residences) by a consumer which, except for the exclusion provided in 40 CFR Section 261.4(b)(1), would be classified as a hazardous waste under 40 CFR Part 261.

(21) **"Hazardous substance"** means any substance listed in Table 302.4 of 40 CFR Part 302.

(22) **"Hazardous waste"** means any substance identified or listed as a hazardous waste by the EPA pursuant to 40 CFR Part 261.

(23) **"Hazardous waste treatment, disposal, and recovery facility"** means all contiguous land and structures, other appurtenances and improvements on the land used for the treatment, disposal or recovery of hazardous waste.

(24) **"Individual building sites"** means and includes sites of building construction or earthwork activities that are not a part of a new subdivision development and any individual lot within a newly developing subdivision.

(25) **"Industrial General Permit."** See "Kansas General Permit for Stormwater Discharges Associated with Industrial Activity."

(26) **"Industrial waste"** means any waterborne liquid or solid substance that results from any process of industry, manufacturing, mining, production, trade or business.

(27) **"Industry"** means and includes:

a. municipal landfills;

b. hazardous waste treatment, disposal and recovery facilities;

c. industrial facilities that are subject to Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA), 42 USC Section 11-023;

d. industrial facilities required to obtain NPDES stormwater discharge permits due to their Standard Industrial Classification or narrative description; and

e. industrial facilities that the City Administrator or designee determines are contributing a substantial pollutant loading to the MS4, which are sources of stormwater discharges associated with industrial activity.

(28) **"Kansas General Permit for Stormwater Discharges Associated with Industrial Activity"** and **"Industrial general permit"** mean the

industrial general permit issued by the KDHE and any subsequent modifications or amendments thereto, including group permits.

(29) **"Kansas General Permit for Stormwater Discharges from Construction Sites"** and **"Construction General Permit"** mean the construction general permit issued by KDHE and any subsequent modifications or amendments thereto, including group permits.

(30) **"Landfill"** means an area of land or an excavation in which municipal solid waste is placed for permanent disposal, and which is not a land treatment facility, a surface impoundment or an injection well.

(31) **"Municipal separate storm sewer system" (MS4)** means the system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels or storm drains), owned and operated by the City and designed or used for collecting or conveying stormwater, and which is not used for collecting or conveying sewage.

(32) **"Municipal solid waste"** means solid waste resulting from or incidental to municipal, community, commercial, institutional or recreational activities, and includes garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles and other solid waste other than industrial waste.

(33) **"NPDES permit"** means, for the purpose of this Article, a permit issued by EPA or the State of Kansas that authorizes the discharge of stormwater pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

(34) **"Nonpoint source"** means the source of any discharge of a pollutant that is not a point source.

(35) **"Notice of Intent" (NOI)** means the notice of intent that is required by either the industrial general permit or the construction general permit.

(36) **"Notice of Termination" (NOT)** means the notice of termination that is required by either the industrial general permit or the construction general permit.

(37) **"Notice of violation"** means a written notice provided to the owner or contractor detailing any violations of this Article and any clean-up action expected of the violators.

(38) **"Oil"** means any kind of oil in any form, including but not limited to: petroleum, fuel oil, crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure, sludge, oil refuse and oil mixed with waste.

(39) **"Owner"** means the person who owns a facility, part of a facility or land.

(40) **"Person"** means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity; or their legal representatives, agents or assigns, including all federal, state and local governmental entities.

(41) **"Pesticide"** means a substance or mixture of substances intended to prevent, destroy, repel or migrate any pest or substances intended for use as a plant regulator, defoliant or desiccant.

(42) **"Petroleum product"** means a petroleum product that is obtained from distilling and processing crude oil and that is capable of being used as a fuel for the propulsion of a motor vehicle, or aircraft, including motor gasoline, gasohol, other alcohol blended fuels, aviation gasoline, kerosene, distillate fuel oil and #1 and #2 diesel.

(43) **“Petroleum storage tank” (PST)** means any one or combination of aboveground or underground storage tanks that contain petroleum product and any connecting underground pipes.

(44) **“Point source”** means any discernable, confined and discrete conveyance including, but not limited to: any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

(45) **“Pollutant”** means dredged spoil, spoil waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, yard waste, hazardous household wastes, used motor oil, anti-freeze, litter, and industrial, municipal and agricultural waste discharged into water.

(46) **“Pollution”** means the alteration of the physical, thermal, chemical or biological quality of, or the contamination of, any water in the state that renders the water harmful, detrimental or injurious to humans, animal life, vegetation, or property, or public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

(47) **“Qualified personnel”** means persons who possess the required certification, license or appropriate competence, skills and ability as demonstrated by sufficient education, training and/or experience to perform a specific activity in a timely and complete manner consistent with the regulatory requirements and generally accepted industry standards for such activity.

(48) **“Release”** means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the municipal separate storm sewer system (MS4) or the waters of the United States.

(49) **“Reportable quantity” (RQ)** means, for any hazardous substance, the quantity established and listed in Table 302.4 of 40 CFR Part 302; for any extremely hazardous substance, the quantity established in 40 CFR Part 355.

(50) **“Rubbish”** means nonputrescible solid waste, excluding ashes, which consist of:

a. combustible waste materials, including paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves and similar materials; and,

b. noncombustible waste materials, including glass, crockery, tin cans, aluminum cans, metal furniture and similar materials that do not burn at ordinary incinerator temperatures (one thousand six hundred to one thousand eight hundred degrees Fahrenheit (1600-1800°F.)).

(51) **“Sanitary sewer”** means the system of pipes, conduits and other conveyances which carry industrial waste and domestic sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities and institutions, whether treated or untreated, to the City sewage treatment plant (and to which stormwater, surface water and groundwater are not intentionally admitted).

(52) **“Septic tank waste”** means any domestic sewage from holding tanks such as vessels, chemical toilets, campers, trailers and septic tanks.

(53) **"Service station"** means any retail establishment engaged in the business of selling fuel for motor vehicles that is dispensed from pumps.

(54) **"Sewage"** means the domestic sewage mid and/or industrial waste that is discharged into the City sanitary sewer system and passes through the sanitary sewer system to the City sewage treatment plant for treatment.

(55) **"Site"** means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

(56) **"Solid waste"** means any garbage, rubbish, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material including: solid, liquid, semi-solid or contained gaseous material resulting from industrial, municipal, commercial, mining, agricultural operations and community and institutional activities.

(57) **"State"** means the State of Kansas.

(58) **"Stormwater"** means stormwater runoff, snowmelt runoff and surface runoff and drainage.

(59) **"Stormwater discharge associated with industrial activity"** means the discharge from any conveyance which is used for collecting and conveying stormwater and which is directly related to manufacturing, processing or raw materials storage areas at an industrial plant which is listed as one of the categories of facilities in 40 CFR Section 122.26(b)(14), and which is not excluded from EPA's definition of the same term.

(60) **"Stormwater pollution prevention plan" (SWP3)** means a plan required by an NPDES stormwater permit and which describes and ensures the implementation of practices that are to be used to reduce the pollutants in stormwater discharges associated with construction or other industrial activity.

(61) **"Subdivision development"** means and includes activities associated with the platting of any parcel of land into two or more lots and includes all construction taking place thereon.

(62) **"Used oil"** or **"used motor oil"** means any oil that has been refined from crude oil or a synthetic oil that, as a result of use, storage or handling has become unsuitable for its original purpose because of impurities or the loss or original properties.

(63) **"Water of the state"** and **"water"** mean any groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, inside the territorial limits of the state and all other bodies of surface water, natural or artificial, navigable or non-navigable, and including the beds and banks of all water courses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state.

(64) **"Water quality standard"** means the designation of a body or segment of surface water in the state for desirable uses and the narrative and numerical criteria deemed by the state to be necessary to protect those uses.

(65) **"Waters of the United States"** means all waters which are currently used, were used in the past or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; all interstate waters, including interstate wetlands; all other waters the use, degradation or destruction of which would affect or could affect interstate or foreign commerce; all impoundments of waters otherwise defined as waters of the United States under this definition; all tributaries of waters identified in this definition; all

wetlands adjacent to waters identified in this definition; and any waters within the federal definition of "waters of the United States" at 40 CFR Section 122.2; but not including any waste treatment systems, treatment ponds or lagoons designed to meet the requirements of the Federal Clean Water Act.

(66) **"Wetland"** means any area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support and that under normal circumstances does support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

(67) **"Yard waste"** means leaves, grass clippings, yard and garden debris and brush that result from landscaping maintenance and land-clearing operations.

(Ord. 806)

8-1002. GENERAL PROHIBITION. (a) No person shall introduce or cause to be introduced into the MS4 any discharge that is not composed entirely of stormwater except as allowed in subsection (b).

(b) The following non-stormwater discharges are deemed acceptable and not a violation of this section:

(1) a discharge authorized by and in full compliance with an NPDES permit (other than the NPDES permit for discharges from the MS4);

(2) a discharge or flow resulting from emergency fire fighting;

(3) a discharge or flow of fire protection water that does not contain oil or hazardous substances or materials;

(4) a discharge from water line flushing;

(5) a discharge or flow from lawn watering, landscape irrigation, or other irrigation water;

(6) a discharge or flow from a diverted stream flow or natural spring;

(7) a discharge or flow from uncontaminated pumped groundwater or rising groundwater;

(8) uncontaminated groundwater infiltration;

(9) uncontaminated discharges or flow from a foundation drain, crawl space pump, footing drain or sump pump;

(10) a discharge or flow from a potable water source not containing any harmful substance or material from the cleaning or draining of a storage tank or other container;

(11) a discharge or flow from air conditioning condensation that is unmixed with water from a cooling tower, emissions scrubber, emissions filter, or any other source of pollutant;

(12) a discharge or flow from individual residential car washing;

(13) a discharge or flow from a riparian habitat or wetland or natural spring;

(14) a discharge or flow from water used in street washing that is not contaminated with any soap, detergent, degreaser, solvent, emulsifier, dispersant or any other harmful cleaning substance;

(15) stormwater runoff from a roof that is not contaminated by any runoff or discharge from an emissions scrubber or filter or any other source of pollutant;

(16) swimming pool water, excluding filter backwash, that has been dechlorinated so that it contains no harmful quantity of chlorine, muriatic acid or

other chemical used in the treatment or disinfection of the swimming pool water or in pool cleaning;

(17) heat pump discharge waters (residential only).

(c) Notwithstanding the provisions of subsection (b) of this section, any discharge shall be prohibited by this section if the discharge in question has been determined by the City Administrator or designee to be a source of pollutants to the waters of the United States or to the MS4, written notice of such determination has been provided to the discharger, and the discharge has occurred more than ten (10) days beyond such notice.
(Ord. 806)

8-1003. SPECIFIC PROHIBITIONS AND REQUIREMENTS. (a) The specific prohibitions and requirements in this section are not necessarily inclusive of all the discharges prohibited by the general prohibition in Section 8-1002.

(b) No person shall introduce or cause to be introduced into the MS4 any discharge that causes or contributes to causing the City to violate a KDHE water quality standard, the City's NPDES stormwater permit, or any state-issued discharge permit for discharges from its MS4.

(c) No person shall dump, spill, leak, pump, pour, emit, empty, discharge, leach, dispose or otherwise introduce or cause, allow or permit to be introduced the following substances into the MS4:

(1) any used motor oil, antifreeze or any other petroleum product or waste;

(2) a harmful quantity of industrial waste;

(3) any hazardous waste, including household hazardous waste;

(4) any domestic sewage or septic tank waste, grease trap waste or grit trap waste;

(5) any garbage, rubbish or yard waste;

(6) wastewater that contains a harmful quantity of soap, detergent, degreaser, solvent or surfactant-based cleaner from a commercial car wash facility; from any vehicle washing, cleaning or maintenance at any new or used automobile or other vehicle dealership, rental agency, body shop, repair shop or maintenance facility; or from any washing, cleaning or maintenance of any business or commercial or public service vehicle, including a truck, bus or heavy equipment, by a business or public entity that operates more than five (5) such vehicles;

(7) wastewater from the washing, cleaning, de-icing or other maintenance of aircraft;

(8) wastewater from a commercial mobile power washer or from the washing or other cleaning of a building exterior that contains any harmful quantity of soap, detergent, degreaser, solvent or any surfactant-based cleaner;

(9) any wastewater from commercial floor, rug or carpet cleaning;

(10) any wastewater from the washdown or other cleaning of pavement that contains any harmful quantity of soap, detergent, solvent, degreaser, emulsifier, dispersant or any other harmful cleaning substance; or any wastewater from the washdown or other cleaning of any pavement where any spill, leak or other release of oil, motor fuel or other petroleum or hazardous substance has occurred, unless all harmful quantities of such released material have been previously removed;

(11) any effluent from a cooling tower, condenser, compressor, emissions scrubber, emissions filter or the blowdown from a boiler;

(12) any ready-mixed concrete, mortar, ceramic, asphalt base material or hydromulch material or discharge resulting from the cleaning of vehicles or equipment containing or used in transporting or applying such material;

(13) any runoff, washdown water or waste from any animal pen, kennel, fowl or livestock containment area;

(14) any filter backwash from a swimming pool or fountain;

(15) any swimming pool water containing a harmful level of chlorine, muriatic acid or other chemical used in the treatment or disinfection of the swimming pool water or in pool cleaning;

(16) any discharge from water line disinfection by super chlorination if it contains a harmful level of chlorine at the point of entry into the MS4 or waters of the United States;

(17) any water from a water curtain in a spray room used for painting vehicles or equipment;

(18) any contaminated runoff from a vehicle wrecking yard;

(19) any substance or material that will damage, block or clog the MS4; or

(20) any release from a PST or any leachate or runoff from soil contaminated by a leaking PST; or any discharge of pumped, confined or treated wastewater from the remediation of any such PST release, unless the discharger has received an NPDES permit from the state.

(d) No person shall introduce or cause to be introduced into the MS4 any harmful quantity of sediment, silt, earth, soil or other material associated with clearing, grading, excavation or other construction activities in excess of what could be retained on site or captured by employing sediment and erosion control measures to the maximum extent practicable under prevailing circumstances.

(e) No person shall connect a line conveying sanitary sewage, domestic or industrial, to the MS4 or allow such a connection to continue.

(f) REGULATION OF PESTICIDES AND FERTILIZERS:

(1) No person shall use or cause to be used any pesticide or fertilizer in any manner that the person knows, or reasonably should know, is likely to cause or does cause a harmful quantity of the pesticide or fertilizer to enter the MS4 or waters of the United States.

(2) No person shall dispose of, discard, store or transport a pesticide or fertilizer, or its container, in a manner that the person knows or reasonably should know is likely to cause or does cause a harmful quantity of the pesticide or fertilizer to enter the MS4 or waters of the United States.

(g) Used oil. No person shall discharge used oil into the MS4 or a sewer, drainage system, septic tank, surface water, groundwater or water course.

(h) Cleanup. Should it be determined by the City Administrator or designee that any person or business has allowed any pollutant into the MS4 or waters of the United States, immediate measures will be taken by the responsible party to remove the pollutants. If the pollutants are not removed within the time period specified by the City Administrator or designee, the City may remove the pollutants and assess the cost thereof to the responsible party. The City may use any legal means to collect said cost, should the responsible party fail to pay said cost within forty-five (45) days.

(Ord. 806)

8-1004. RELEASE REPORTING AND CLEANUP. (a) Any person responsible for any release of any hazardous material that may flow, leach, enter or otherwise be introduced into the MS4 or waters of the United States shall comply with all state, federal and any other local law requiring reporting, cleanup, containment and any other appropriate remedial action in response to the release.

(b) Within thirty (30) days following such release, the Maize Fire Department shall submit a written report to the City Administrator or designee detailing spill information and the methods used to remedy the problem.
(Ord. 806)

8-1005. STORMWATER DISCHARGES FROM CONSTRUCTION ACTIVITIES.

(a) GENERAL REQUIREMENTS (ALL SITES).

(1) The owners of construction sites shall ensure that BMP are used to control and reduce the discharge of pollutants into the MS4 and waters of the United States to the maximum extent possible under the circumstances.

(2) Qualified personnel (provided by the owner of the construction site) shall inspect disturbed areas that have not been finally stabilized, areas used for storage of materials that are exposed to precipitation, structural control measures and locations where vehicles enter or exit the site at least once every seven (7) calendar days and within twenty-four (24) hours of the end of a storm that is one-half inch (1/2") or greater. All erosion and sediment control measures and other identified best management practices shall be observed in order to ensure that they are operating correctly and are effective in preventing significant impacts to receiving waters and the MS4. Based on the results of the inspection, the BMP shall be revised as appropriate as soon as practicable. These inspections, along with a description of revisions, will be documented in writing and available for inspection by the City Administrator or designee upon request.

(3) Should it be found that soil or pollutants have already or may be carried into the MS4 or waters of the United States, immediate measures will be taken by the owner to remedy the violation and/or remove the pollutants. If the owner fails to remove pollutants within the time period described in the notice of violation from the City, the City may remove the pollutants and assess the cost thereof to the responsible owner. Failure of the owner to pay said costs will be grounds for the denial of further approvals or the withholding of occupancy certificates.

(4) When determined to be necessary for the effective implementation of this section, the City Administrator or designee may require any plans and specifications that are prepared for the construction of site improvements to illustrate and describe the BMP required by subsection (a)(1) of this section above that will be implemented at the construction site. Should the proper BMP not be installed or if the BMP are ineffective, upon reasonable notice to the owner, the City may deny approval of any building permit, grading permit, subdivision plat, site development plan or any other City approval necessary to commence or continue construction, or to assume occupancy.

(5) The owner of a site of construction activity is responsible for compliance with the requirements in this subsection. In the case of new subdivisions, builders on individual lots can operate under the developer's NPDES permit if the developer's SWP3 deals with individual lots and the contractor's certification has been signed.

(6) Any contractor on a construction site will also be required to use BMP so as to minimize pollutants that enter into the MS4.

(7) All persons shall avoid damaging BMP devices once in place. Any person damaging a BMP device shall be responsible for the repair of the damaged BMP device. Malicious destruction of a BMP device or failure of such responsible person to repair a BMP device will be deemed a violation of this Article.

(b) SITES REQUIRING FEDERAL AND/OR STATE NPDES STORMWATER DISCHARGE PERMITS. All owners of an contractors on sites of construction activity that require a federal or state NPDES stormwater discharge permit or that are part of a common plan of development or sale requiring said permit(s) shall comply with the following requirements (in addition to those in subsection (a)):

(1) Any owner who intends to obtain coverage for stormwater discharges from a construction site under the Kansas General Permit for Stormwater Discharges from Construction Sites ("the construction general permit") shall submit a signed copy of its NOI to the City Administrator or designee when a building permit application is made. If the construction activity is already underway upon the effective date of this Article, the NOI shall be submitted within thirty (30) days. When ownership of the construction site changes, a revised NOI shall be submitted within fifteen (15) days of the change in ownership.

(2) A stormwater pollution prevention plan (SWP3) shall be prepared and implemented in accordance with the requirements of the construction general permit or any individual or group NPDES permit issued for stormwater discharges from the construction site and with any additional requirement imposed by or under this Article and any other City Code chapter.

(3) The SWP3 shall be prepared by a qualified person and shall comply with State NPDES requirements. The signature of the preparer shall constitute his/her attestation that the SWP3 fully complies with the requirements of the permit issued.

(4) The SWP3 shall be completed prior to the submittal of the NOI to the City Administrator or designee and for new construction, prior to the commencement of construction activities. The SWP3 shall be updated and modified as appropriate and as required by the NPDES permit.

(5) The City Administrator or designee may require any owner who is required by subsection (b)(2) of this section to prepare a SWP3, to submit the SWP3, and any modification thereto, to the City Administrator or designee for review at any time.

(6) Upon the City Administrator or designee's review of the SWP3 and any site inspection that he/she may conduct, if the SWP3 is not being fully implemented, the City Administrator or designee or his/her representative may upon reasonable notice to the owner deny approval of any building permit, grading permit, site development plan, final occupancy certificate or any other City approval necessary to commence or continue construction. A stop work order may also be issued.

(7) All contractors working on a site subject to an NPDES permit shall sign a copy of the following certification statement before beginning work on the site:

> "I certify under penalty of law that I understand the terms and conditions of the National Pollutant Discharge Elimination System (NPDES) permit that authorizes the stormwater discharges associated with construction activity from the construction site identified as part of this certification and with the stormwater pollution prevention ordinance of the City, and I agree to implement and follow the provisions of the Stormwater Pollution Prevention Plan (SWP3) for the construction site."

The certification must include the name and title of the person providing the signature; the name, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made. All contractors will be responsible for their own activities to ensure that they comply with the owners' SWP3. Failure to comply with the SWP3 or malicious destruction of BMP devices is hereby deemed to be a violation of this Article.

(8) The SWP3 and the certifications of contractors required by subsection (b)(7) of this section, and with any modifications attached, shall be retained at the construction site from the date of construction commencement through the date of final stabilization.

(9) The City Administrator or designee may notify the owner at any time that the SWP3 does not meet the requirements of the NPDES permit issued or any additional requirement imposed by or under this Article. Such notification shall identify those provisions of the permit or this Article which are not being met by the SWP3, and identify which provisions of the SWP3 require modification in order to meet such requirements. Within thirty (30) days of such notification from the director, the owner shall make the required changes to the SWP3 and shall submit to the City Administrator or designee a written certification from the owner that the requested changes have been made.

(10) The owner shall amend the SWP3 whenever there is a change in design, construction, operation or maintenance which has a significant effect on the potential for the discharge of pollutants to the MS4 or to the waters of the United States, and which has not otherwise been addressed in the SWP3, or if the SWP3 proves to be ineffective in eliminating or significantly minimizing pollutants, or in otherwise achieving the general objective of controlling pollutants in stormwater discharges.

(11) Qualified personnel (provided by the owner of the construction site) shall inspect disturbed areas that have not been finally stabilized, areas used for storage of materials that are exposed to precipitation, structural control measures, and locations where vehicles enter or exit the site, at least once every seven calendar days and within twenty-four (24) hours of the end of the storm that is one-half inch (1/2") or greater. Disturbed areas and areas used for storage of materials that are exposed to precipitation shall be inspected for evidence of, or the potential for, pollutants entering the drainage system. Erosion and sediment control measures identified in the SWP3 shall be observed to ensure that they are operating correctly. Where discharge locations or points are accessible, they shall be inspected to ascertain whether erosion control measures are effective in preventing significant impacts to receiving waters or the MS4. Locations where vehicles enter or exit the site shall be inspected for evidence of off-site sediment tracking.

(12) Based on the results of the inspections required by subsection (b)(11) of this section, the pollution prevention measures identified in the SWP3

shall be revised as appropriate. Such modifications shall provide for timely implementation of any changes to the SWP3 within ten calendar days following the inspection.

(13) A report summarizing the scope of any inspection required by subsection (b)(11) of this section, and the names and qualifications of personnel making the inspection, the date(s) of the inspection, major observations relating to the implementation of the SWP3, and actions taken in accordance with subsection (b)(12) of this section above shall be made and refined on site as part of the SWP3. Such report shall identify any incidence of noncompliance. Where a report does not identify any incidence of noncompliance, the report shall contain a certification that the facility is in compliance with the SWP3, the facility's NPDES permit, and this Article. The report shall be certified and signed by the person responsible for making it.

(14) The owner shall retain copies of any SWP3 and all reports required by this Article or by the NPDES permit for the site, and records of all data used to complete the NOI for a period of at least three (3) years from the date that the site is finally stabilized.

(15) Upon final stabilization of the construction site, the owner shall submit written certification to the City Administrator or designee that the site has been finally stabilized. The City may withhold the final occupancy or use permit for any premises constructed on the site until such certification of final stabilization has been filed and the City Administrator or designee has determined, following any appropriate inspection, that final stabilization has occurred and that any required permanent structural controls have been completed.
(Ord. 806)

8-1006. STORMWATER DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITY. All operators of: a) municipal landfills; b) hazardous waste treatment, disposal and recovery facilities; c) industrial facilities that are subject to Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA), 42 USC Section 11023; d) industrial facilities required to obtain NPDES stormwater discharge permits due to their Standard Industrial Classification or narrative description; and e) industrial facilities that the City Administrator or designee determines are contributing a substantial pollutant loading to the MS4, which are sources of stormwater discharges associated with industrial activity, shall comply with the following requirements:

(a) any owner who intends, after the effective date of this Article, to obtain coverage for a stormwater discharge associated with industrial activity under the Kansas General Permit for Stormwater Discharges Associated with Industrial Activity ("the industrial general permit") shall submit a signed copy of its NOI to the City Administrator or designee.

(b) When required by their NPDES permit, all industries listed in this section shall prepare a SWP3 and implement said plan in accordance with the requirements of their state or federal NPDES permit.

(c) The SWP3, when required, shall be prepared and signed by a qualified individual and will comply with all state NPDES requirements. The signature of the preparer shall constitute his/her attestation that the SWP3 fully complies with the requirements of the NPDES permit.

(d) The SWP3, when required, shall be updated and modified as appropriate and as required by the NPDES permit and this Article.

(e) A copy of any NOI that is required by section 8-1005(b)(1) shall be submitted to the City in conjunction with any application for a permit or any other City approval necessary to commence or continue operation of the industrial facility.

(f) The City Administrator or designee may require any operator who is required by section 8-1005(b)(2) to prepare a SWP3, to submit the SWP3, and any modifications thereto, to the City administrator or designee for review.

(g) Upon the City Administrator or designee's review of the SWP3 and any site inspection that he/she may conduct, the City Administrator or designee may upon reasonable notice to the owner deny approval necessary to commence or continue operation of the facility, on the grounds that the SWP3 does not comply with the requirements of the NPDES permit, or any additional requirement imposed by or under this Article. Also, if at any time the City Administrator or designee determines that the SWP3 is not being fully implemented, upon reasonable notice to the owner, he/she may deny approval of any application for a permit or other City approval necessary to commence or continue operation of the facility.

(h) The SWP3, if required, with any modifications attached, shall be retained at the industrial facility from the date of commencement of operations until all stormwater discharges associated with industrial activity at the facility are eliminated and the required notice of termination (NOT) has been submitted.

(i) The City Administrator or designee may notify the owner at any time that the SWP3 does not meet the requirements of the NPDES permit, or any additional requirement imposed by or under this Article. Such notification shall identify those provisions of the permit or Article which are not being met by the SWP3, and identify which provisions require modification in order to meet such requirements. Upon thirty (30) days of such notification from the City Administrator or designee, the owner shall submit to the City Administrator or designee a written certification that the requested changes have been made.

(j) The owner shall amend the SWP3, if required, whenever there is a change in design, construction, operation or maintenance which has a significant effect on the potential for the discharge of pollutants to the MS4 or to the waters of the United States, or if the SWP3 proves to be ineffective in eliminating or significantly minimizing pollutants, or in otherwise achieving the general objective of controlling pollutants in stormwater discharges.

(k) As may be required by the facilities NPDES permit, qualified personnel (provided by the owner) shall inspect equipment and areas of the facility specified in the SWP3 at appropriate intervals or as may be specified in their NPDES permit. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspection shall be maintained.

(l) Industrial facilities will implement a sampling and testing program as required by their individual NPDES permits. The City Administrator or designee may require written reports of any such monitoring and testing to be submitted to him/her.

(m) The owner shall retain the SWP3 and all sampling and testing reports until at least one (1) year after stormwater discharges associated with industrial activity at the facility are eliminated, or the operator is no longer operating the facility and a NOT has been submitted.

(n) For discharges subject to the semi-annual or annual monitoring requirements of the industrial general permit, in addition to the records-retention requirements of the paragraph above, owners are required to retain for a six-year period from the date of sample collection, records of all sampling and testing information collected. Owners must submit such monitoring results, and/or a summary thereof, to the City Administrator or designee upon his/her request.

(o) After the effective date of this Article, no stormwater discharge shall contain any hazardous metals in a concentration that would result in the violation of any Kansas Surface Water Quality Standard.

(Ord. 806)

8-1007. DITCHES AND PONDS.

(a) DUTY TO MAINTAIN. The owner of any private drainage ditch or pond that empties into the City's MS4 or the waters of the United States has a duty to use BMP on the ditches or ponds to minimize the pollutant levels downstream. Such BMP include, but are not limited to, removing excessive buildup of silt, repairing bank erosion, maintaining vegetative cover, the cleaning of inlet and outlet works and the like.

(b) INSPECTION AND NOTICE BY CITY. The City will periodically inspect these privately owned ditches and ponds. Should conditions be found that cause the pollution of downstream receiving waters, the City Administrator or designee shall so notify the owners, and state what actions are expected by the owners to remedy the problem.

(c) FAILURE TO REPAIR. Should the owners fail to make the necessary repair within one hundred twenty (120) days after notice, the City is authorized to do the repairs at the expense of the owner. Should the owner fail to reimburse the City for the cost of the repairs upon demand, the City may assess the cost thereof to the owner and initiate any collection proceedings authorized by law.

(Ord. 806)

8-1008. COMPLIANCE MONITORING.

(a) RIGHT OF ENTRY. The City Administrator or designee or his/her authorized representatives, shall have the right to enter the premises of any person discharging stormwater to the MS4 or to waters of the United States at any reasonable time to determine if the discharger is complying with all requirements of this Article, and with any state or federal discharge permit, limitation or requirement. Dischargers shall allow the inspectors ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and for the performance of any additional duties. No adverse action will be taken against any property owner or resident who refuses to grant such right-of-entry.

(b) RECORDS. Subject to the requirements of subsection (a), dischargers shall make available, upon request, any SWP3s, modifications thereto, self-inspection reports, monitoring records, compliance evaluations, notices of intent, and any other records, reports and other documents related to compliance with this Article and with any state or federal discharge permit.

(c) SAMPLING. The City Administrator or designee shall have the right to set up on the discharger's property such devices that are necessary to conduct sampling of stormwater discharges.

(Ord. 806)

8-1009. SUBDIVISION DEVELOPMENT. (a) The developer of any subdivision requiring a federal or state NPDES stormwater discharge permit will be responsible for obtaining the required permit and developing and implementing an overall SWP3 for the subdivision. Said SWP3 shall include BMP to be used on individual lot building sites.

(b) City contractors installing public streets; water, sanitary sewer, storm sewer lines; and/or sidewalks will be required to comply with the developer's SWP3s and sign the appropriate contractor certification statement. For work in public rights-of-way or easements requiring a federal or state NPDES stormwater discharge permit, the City shall be responsible for obtaining the required permit and preparing and implementing the required SWP3s.

(c) Any utility company installing utilities within a new subdivision will also be required to comply with the developer's SWP3s and sign the appropriate contractor certification statement. For work in public rights-of-way or easements requiring a federal or state NPDES stormwater discharge permit, the utility company shall be responsible for obtaining the required permit and preparing and implementing the required SWP3s.

(d) The purchasers or individual lots within the subdivision for construction purposes shall comply with the developer's SWP3 and shall sign a certification statement agreeing to do so.

(Ord. 806)

8-1010. ENFORCEMENT ACTIONS.

(a) The discharge of, or potential discharge of, any pollutant to the MS4 or waters of the United States; failure to obtain a federal or state stormwater discharge permit; the failure to prepare or implement a SWP3 when required by a federal or state permit; the failure to use effective BMP devices; the malicious destruction of BMP devices; failure to repair BMP devices; the failure to comply with any directive, citation or order issued under this Article; are violations of this Article for which enforcement action may be taken.

(b) The enforcement actions to be taken under this Article, as provided in Section 8-1011, are as follows:

(1) Criminal Penalty. Any person violating any provision of this Article is guilty of a misdemeanor and upon conviction therefor shall be punished by a fine of not more than one thousand dollars ($1,000.00) or by imprisonment for not more than six (6) months, or by both such fine and imprisonment. Each and every day during which any violation of any provision of this Article is committed, continued or permitted is a separate violation.

(2) Stop Work Order. Notwithstanding other penalties provided by this Article, whenever the City Administrator or designee, or their designees, finds that any owner or contractor on a construction site has violated or continues to violate any provision of this Article or any order issued thereunder, the City Administrator or designee may, after reasonable notice to the owner or contractor, issue a stop work order to the owner and contractors by posting such order at the construction site. Said order shall also be distributed to all City departments and divisions whose decisions may affect any activity at the site. Unless express written exception is made, the stop work order shall prohibit any further construction activity at the site and shall bar any further inspection or approval by the City associated with the building permit, grading permit, site development plan

approval, or any other approval necessary to commence or to continue construction or to assume occupancy at the site. Issuance of a stop work order shall not be a bar against, or a prerequisite for, taking any other action against the violator. Failure to comply with the requirements of any stop work order is a violation of this Article.

(3) Administrative Penalty Process.

a. When the City Administrator or designee finds that any stormwater discharger has violated or continues to violate the provisions set forth in this Article, or the discharger's NPDES permit or any order issued thereunder, the City Administrator or designee may issue an order for compliance to the discharger. Such orders may contain any requirements as might be reasonably necessary and appropriate to address non-compliance including, but not limited to, the installation of BMP, additional self-monitoring and/or disconnection from the MS4.

b. The City Administrator or designee is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any industrial discharger responsible for non-compliance. Such orders shall include specific action to be taken by the discharger to correct the non-compliance within a time period specified by the order.

c. Notwithstanding any other remedies or procedures available to the City, any discharger who is found to have violated any provision of this Article, or any NPDES permit or any order issued under this Article, may be assessed an administrative penalty as follows:

1. failure to obtain required NPDES permit: up to two thousand five hundred dollars ($2,500.00) per violation;

2. failure to prepare stormwater pollution prevent plan: up to two thousand five hundred dollars ($2,500.00) per violation;

3. failure to install best management practices: up to one thousand dollars ($1,000.00) per violation;

4. failure to maintain best management practices: up to one thousand dollars ($1,000.00) per violation;

5. failure to perform required sampling and testing or provide testing reports: up to one thousand dollars ($1,000.00) per violation.

Each day on which non-compliance shall occur or continue shall be deemed a separate and distinct violation. Upon assessment of any administrative penalty, the City will bill the violator for said charge and the City Administrator or designee shall have such collection remedies as are available at law.

(Ord. 806)

8-1011. APPLICABILITY OF ENFORCEMENT ACTIONS.

(a) Illegal dumping will be subject to criminal penalties process.

(b) Illegal connections will be subject to either the criminal or administrative penalty processes.

(c) Industrial violations will be subject to the administrative penalty process.

(d) Individual building sites not requiring a federal or state NPDES permit will be subject to the criminal penalty and the stop work order processes; however, any owner or contractor of such sites found guilty of multiple violations of this Article will also be subject to the administrative penalty process.

(e) Individual building sites requiring a federal or state NPDES permit will be subject to the administrative penalty process.

(f) Subdivision developers in subdivisions not requiring a federal or state NPDES permit will be subject to the criminal penalty and stop work order processes; however, any such developer found guilty of multiple violations of this Article will also be subject to the administrative penalty process.

(g) Subdivision developers of subdivisions requiring a federal or state NPDES permit will be subject to the administrative penalty process.

(h) City contractors and utility companies working on projects not requiring a federal or state NPDES permit will be subject to the criminal penalty process.

(i) City contractors and utility companies working on projects requiring federal or state NPDES permit will be subject to the administrative penalty process.

(Ord. 806)

8-1012. HEARING AND APPEAL. Any violator that is subjected to the administrative penalty or stop work order processes may request a hearing and appeal as follows:

(a) Any party affected by a penalty, order, directive or determination issued or made pursuant to this Article may, within seven (7) days of the issuance of such penalty, order, directive or determination, request a hearing before the City Administrator or designee to show cause why such should be modified or made to not apply to such person. Such request shall be in writing and addressed to the City Administrator at 10100 West Grady Avenue, P. O. Box 245, Maize, Kansas 67101. The City Administrator or designee shall hold the requested hearing as soon as practical after receiving the request, at which time the person affected shall have an opportunity to be heard. At the conclusion of the hearing, the City Administrator or designee shall issue a written response to the person requesting the hearing affirming, modifying, or rescinding the penalty, order, directive or determination issued or made.

(b) Any party aggrieved by the decision of the City Administrator or designee may appeal such decision to the City Council within seven (7) days of receipt of the decision by filing notice of appeal with the City Clerk. Upon hearing, the City Council may affirm, modify or reverse the decision of the City Administrator or designee. Any appeal of the council's decision shall be as provided by state law.

(Ord. 806)

8-1013. ENFORCEMENT PERSONNEL AUTHORIZED. The following personnel employed by the City shall have the power to issue notices of violations, criminal citations, and implement other enforcement actions under this Article.

(a) Employees of the City designated by the City Administrator.

(Ord. 806)

8-1014. OTHER REMEDIES. Notwithstanding any other remedies or procedures available to the City, if any person discharges into the MS4 in a manner that is contrary to the provisions of this Article or any NPDES permit or order issued hereunder, the City Attorney may commence an action for appropriate legal and equitable relief including damages and costs in the district court of Sedgwick

County. The City Attorney may seek a preliminary or permanent injunction or both which restrains or compels the activities on the part of the discharger. (Ord. 806)

8-1015. FALSIFYING INFORMATION. Any person who knowingly makes false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this Article or any NPDES permit, or who falsifies or tampers with any monitoring device or method required under this Article shall, upon conviction, be punished by a fine of not more than two thousand five hundred dollars ($2,500.00) or by imprisonment for not more than one (1) year, or by both such fine and imprisonment. (Ord. 806)

8-1016. SUPPLEMENTAL ENFORCEMENT ACTIONS.

(a) PERFORMANCE BONDS. Where necessary for the reasonable implementation of this Article, the City Administrator or designee may, by written notice, order any owner of a source of stormwater discharge associated with construction or industrial activity effected by this Article to file a satisfactory bond, payable to the City, in a sum not to exceed a value determined by the City Administrator or designee to be necessary to achieve consistent compliance with this Article. The City may deny approval of any building permit, grading permit, subdivision plat, site development plan, or any other City permit or approval necessary to commence or continue construction or industrial activity at the site, or to assume occupancy, until such a performance bond has been filed.

(b) LIABILITY INSURANCE. Where necessary for the reasonable implementation of this Article, the City Administrator or designee may, by written notice, order any owner of a source of stormwater discharge associated with construction or industrial activity effected by this Article to submit proof that it has obtained liability insurance, or other financial assurance, in an amount not to exceed a value reasonably determined by the City Administrator or designee, that is sufficient to remediate, restore and abate any damage to the MS4, the waters of the United States or any other aspect of the environment that is caused by the discharge.

(Ord. 806)

8-1017. SEVERABILITY. If any provision of this Article is invalidated by any court of competent jurisdiction, the remaining provisions of this Article shall remain in full force and effect.

(Ord. 806)

CHAPTER IX. MUNICIPAL COURT

Article 1. General Provisions

ARTICLE 1. GENERAL PROVISIONS

9-101. MUNICIPAL COURT ESTABLISHED. There is hereby established a municipal court for the City of Maize, Kansas. The municipal court shall have jurisdiction to hear and determine cases involving violations of the ordinances of the city. (Code 2003)

9-102. SAME; PRACTICE AND PROCEDURE. The Kansas code of procedure for municipal courts, as set forth in K.S.A. 12-4101 *et seq.* and all acts amendatory or supplemental thereto shall govern the practice and procedure in all cases in the municipal court. (Code 2003)

9-103. TIME AND PLACE OF SESSIONS. Municipal court shall be held in the Maize City Hall, located at 10100 West Grady Avenue, Maize, Kansas, on the 1st, 2nd, 3rd and 4th Wednesdays of each month starting at 4:00 p.m. In the event that a regularly scheduled municipal court session falls on a legal holiday, the municipal court judge shall have the authority to reschedule the session to another appropriate time. (Ord. 931)

9-104. MUNICIPAL JUDGE; APPOINTMENT. The municipal court shall be presided over by a municipal judge. The mayor, subject to the approval of the city council, shall appoint the judge of the municipal court. (Code 2003)

9-105. SAME; ABSENCE; VACANCY; PRO TEM. In the event the municipal judge is temporarily unable to preside due to absence, illness or disqualification, the municipal judge shall designate an attorney or other qualified person to act as judge pro tempore. In the event the municipal judge fails to appoint a judge pro tempore, the judge pro tempore shall be appointed in the same manner as the municipal judge is selected. The judge pro tempore shall receive compensation as shall be provided by ordinance, payable in the same manner as the compensation of the regular municipal judge.

In the event a vacancy shall occur in the office of municipal judge, a successor shall be appointed to fill the unexpired term in the same manner as the municipal judge was appointed. (K.S.A. 12-4107; Code 2003)

9-106. SAME; POWERS AND DUTIES. The municipal judge shall have such powers and duties as set forth in the Kansas code of procedure for municipal courts (K.S.A. 12-4101 *et seq.*) and all acts amendatory or supplemental thereto. (Code 2003)

9-107. SAME; SALARY. The municipal judge shall receive a salary as shall be fixed by ordinance. (Code 2003)

9-108. COURT CLERK. There is hereby established the office of the clerk of the municipal court of the City of Maize, Kansas, which office shall be filled by appointment by the municipal judge of the municipal court. The duties of the office shall be those prescribed by the Code for Municipal Courts set forth in Chapter 12, Article 41 of the Kansas Statutes, and shall include the following duties:

(a) The clerk shall issue all process of the court, administer oaths, file and preserve all papers, docket cases and set same for trial and shall perform such further acts as may be necessary to carry out the duties and responsibilities of the court. The clerk shall receive, account for and pay to the city treasurer monthly all fines and forfeited bonds paid into the court. The clerk shall make reports to the judicial administrator and furnish the information when requested by him, her or a departmental justice on such forms furnished by the judicial administrator, and approved by the supreme court.

(b) The clerk of the municipal court shall within 10 days after selection and before entering upon the duties of office, execute to the city such bond as the governing body may require, which shall be approved by the governing body, and file in the office of the city clerk, conditioned for the faithful performance of the duties required of him or her by law, and for the faithful application and payment of all moneys that may come into his or her hands in the execution of the duties of the office. The city shall pay the cost of such bond.

(c) The monthly salary of the clerk shall be fixed by ordinance.

(d) A majority of all members of the council may remove the clerk appointed under the authority of this article, or for good cause the mayor may temporarily suspend any such appointed clerk.

(K.S.A. Supp. 12-4108; Code 2003)

9-109. PAYMENT OF FINE. Where a municipal court judgment against any person results in a fine and/or court costs only, the same shall be satisfied by paying the amount of such fine and/or court costs to the municipal court immediately on the rendition of judgment, or at such time as the municipal judge shall determine. (Code 2003)

9-110. SAME; FAILURE TO PAY SEPARATE VIOLATION. It shall be unlawful for any person to willfully fail to pay any lawfully imposed fine for a violation of any law of the city within the time authorized by the court and without lawful excuse having been presented to the court on or before the date the fine is due. Such conduct constitutes a violation of this article, regardless of the full payment of the fine after such time. (Code 2003)

9-111. FAILURE TO APPEAR. (a) It shall be unlawful for any person charged with violation of any law of the city to fail to appear before the municipal court when so scheduled to appear, unless lawful excuse for absence is presented to the court on or before the time and date scheduled for appearance.

(b) For the purpose of subsection (a), failure to appear shall include willfully incurring a forfeiture of an appearance bond and failure to surrender oneself within 30 days following the date of such forfeiture by one who is charged with a violation of the laws of the city and has been released on bond for appearance before the municipal court for trial or other proceeding prior to conviction, or willfully incurring a forfeiture of an appearance bond and failing to surrender oneself within 30 days

after his or her conviction of a violation of the laws of the city has become final by one who has been released on an appearance bond by any court of this state.

(c) Any person who is released upon his or her own recognizance, without surety, or who fails to appear in response to a summons, notice to appear, or traffic citation duly served upon him or her personally shall be deemed a person released on bond for appearance within the meaning of subsection (b) of this section.

(d) Failure to appear, upon conviction thereof, shall be punishable by incarceration for up to 30 days and/or a fine of up to $500.
(Code 2003)

9-112. COURT COSTS. (a) Court costs in all cases before the City of Maize, Kansas, Municipal Court shall include witness fees and mileage fees as allowed under K.S.A. 12-4411 and amendments thereto. In addition, court costs shall include the following in all cases, except cases involving parking violations:

(1) A $96.50 fee;
(2) A city police department training fee of ($13.50).

This $110.00 in court costs includes all costs required to be assessed and collected by state statute. (Ord. 916)

(b) Costs may be assessed against accused persons for the administration of justice in any municipal court case where the accused person is found guilty, where the accused person pleads guilty or where a deferred judgment is entered. The costs shall be assessed in accordance with the terms herein contained. If it appears to the court that the prosecution was instituted without probable cause and for malicious motives, the court may require the complaining witness or other person instituting the prosecution to appear and answer concerning their motives for instituting the prosecution. If, upon hearing, the court determines that the prosecution was instituted without probable cause and from malicious motives, all costs in the case shall be assessed against the complaining witness or other person initiating the prosecution. (Ord. 824)

9-113. INDIGENT DEFENDANTS; ATTORNEYS. The judge of the municipal court shall prepare and file in the office of the city clerk of the city a list of attorneys who are eligible for appointment to represent persons determined indigent but stand accused of violations of the ordinances of the city that could potentially subject the accused person to incarceration. The nature and form of the appointment list shall be prepared at the direction of the municipal court judge. (Ord. 393, Sec. 1)

9-114. SAME; APPOINTMENT. (a) In all cases pending before the municipal court in which the court determines the defendant is subject to a sentence of a term of incarceration, the judge of the municipal court presiding at defendant's first appearance shall advise the defendant, if he or she appears without counsel, that he or she is entitled to the appointment of counsel, unless the defendant waives such entitlement, and that legal counsel will be appointed to represent the defendant if it is determined by the court that the defendant is not financially able to employ an attorney to represent them in the case pending before the municipal court in which they are a defendant. If it is determined by the judge of the municipal court that the defendant is not able to employ legal counsel, the court

shall then appoint an attorney, unless the defendant waives his or her right to legal counsel. The appointment of counsel shall be from the list provided for in section 9-113. Such appointment of counsel shall be recorded upon the court's docket.

(b) If after the appointment of legal counsel, pursuant to this article, the counsel becomes at anytime aware that the defendant has funds or other resources sufficient to enable the defendant to employ legal counsel, the attorney shall so advise the court and ask permission to withdraw from the case, or alternatively to be permitted to accept compensation from the defendant for legal services rendered and to be rendered.

(Ord. 393, Secs. 2:3)

9-115. SAME; AFFIDAVIT. (a) When any defendant, who is entitled to have the assistance of legal counsel, claims to be financially unable to employ the counsel, the court shall require that the defendant file an affidavit with the court containing such information as the court may require, and in the form approved by the municipal court judge. The court may interrogate the defendant, under oath, regarding the contents of the affidavit, and may require the defendant to produce evidence upon the issue of defendant's financial condition, and may require the city attorney, a city law enforcement officer, or other municipal court employee, to investigate the facts of the affidavit and report upon the financial condition of the defendant to the court prior to the appointment of legal counsel.

(b) In making such determination, the court shall consider the defendant's assets and income, the amount of the assets and income needed to support the defendant and the defendant's immediate family, and any property conveyed by the defendant without adequate monetary consideration, from and after the date of the commission of the alleged offense. If the defendant's assets and income, as determined by the court, are not sufficient to enable the defendant to cover the anticipated cost of effective representation by private legal counsel, taking into account the nature of the proceedings pending before the court, the defendant shall be determined indigent, in full or in part, and the court shall appoint an attorney as provided in section 9-114(b). If the court determines that the defendant is financially able to employ legal counsel, the court shall so advise the defendant and shall give the defendant a reasonable opportunity to employ an attorney of the defendant's own choosing.

(Ord. 393, Secs. 4:5)

9-116. REIMBURSEMENT OF INDIGENT DEFENDANT ATTORNEY FEES AND INCARCERATION FEES. In addition to or in lieu of any other sentence or the imposition of any other conditions of probation or suspension of sentencing authorized by law, whenever a person is found guilty of the violation of an ordinance, the municipal Court judge may order the person to:

(a) reimburse the City for all or a part of the reasonable expenditures by the City to provide counsel and other defense services to the defendant. In determining the amount and method of payment of such sum, the Court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant 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 which sentenced the defendant to waive payment of such sum or of any unpaid portion thereof. If it appears to the satisfaction of the Court that payment of the amount due will impose manifest hardship on the defendant or the

defendant's immediate family, the Court may waive payment of all or part of the amount due or modify the method of payment.

(b) reimburse the City for all or part of the expenditure (payment to Sedgwick County, Kansas) by the City to incarcerate the person, pre-conviction or post-conviction, in the Sedgwick County Adult Detention Facility. In determining the amount and method of payment of such sums, the Court shall take into account the financial resources of the defendant and the nature of the burden that payment of such sums will impose. A defendant who is not willfully in default in the payment thereof may at any time petition the municipal Court to waive payment of such sums or of any unpaid portion thereof. If it appears to the satisfaction of the municipal Court that payment of the amount will impose manifest hardship on the defendant or the defendant's immediate family, the Court may waive payment or part of the amount due or modify the method of payment. (Ord. 846)

9-117. SAME; COMPENSATION. An attorney who provides services as set forth in this article shall be entitled to compensation at the conclusion of the services. Compensation for the legal services shall be paid in accordance with the standards provided herein. Claims for compensation shall be certified by the claimant and shall be reviewed and approved by the judge of the municipal court before whom the legal services were performed. Each claim shall be supported by a written statement specifying in detail the time expended, the service rendered, the expenses incurred, and any other compensation for reimbursement received. Upon review and approval by the judge of the municipal court, each claim of compensation shall be submitted to the clerk of the municipal court, who shall then be authorized to pay the claim in accordance with the procedures of the city and the payment of city obligations. (Ord. 393, Sec. 8)

CHAPTER X. POLICE

ARTICLE 1. POLICE DEPARTMENT

10-101. POLICE DEPARTMENT. The law enforcement department shall consist of a chief of police and such number of regular law enforcement officers as shall be appointed as provided by K.S.A. 15-204. (Code 2003)

10-102. LAW ENFORCEMENT PERSONNEL; GENERAL DUTIES. It shall be the general duty of the chief of police and all sworn law enforcement personnel to the best of their ability to preserve good order, peace and quiet throughout the city as provided by law or ordinance.

The chief of police and all sworn law enforcement personnel shall at all times have power to make arrest under proper process or without process on view of any offense against the laws of the State of Kansas or laws of the city and to keep all persons so arrested, unless admitted to bail, in the city jail, county jail or other proper place to prevent their escape until their trial can be had before the proper officer.

All persons arrested for violation of any law of the state and who shall not be charged with an offense under any law of the city shall be released to the custody of the sheriff of the county and such arrest shall be reported to the county attorney. (Code 2003)

10-103. RULES AND REGULATIONS. The chief of police shall have power to make such rules and regulations as may be necessary for the proper and efficient conduct of the department. Such rules and regulations shall be approved by the governing body. (Code 2003)

ARTICLE 2. PROPERTY IN POLICE CUSTODY

10-201. REGULATIONS. The police department is required to establish regulations detailing the collection, storage, and inventory of property which may come under its control by any manner. (Code 2003)

10-202. DISPOSITION. Any property which has been acquired or turned over to the police department and has been classified in accordance with procedures existing in the police department as unclaimed or for which the proper owner cannot be ascertained shall be kept for a minimum of 90 days. After a period of 90 days, such property, except as provided in section 10-203, shall be sold at public auction to the highest bidder and the proceeds after expenses shall be paid to the city general fund. (Ord. 435, Sec. 3; Code 2003)

10-203. SAME; EXEMPT PROPERTY. The following classes of property shall be considered exceptions to section 10-202 and shall be dealt with in the following manner:

(a) Cash money shall be turned over to the city general fund unless it shall be determined to have collector's value, in which case it shall be auctioned according to the provisions in section 10-202.

(b) Firearms which are available for disposition may be dealt with in the following manner:

(1) If compatible with law enforcement usage, they may be turned over to the police department inventory.

(2) They may be sold to a firearms dealer who maintains the appropriate federal firearms license.

(3) They may be destroyed.

(4) In no case shall firearms be sold at public auction.

(c) Other weapons such as knives, etc., which are deemed to have a legitimate value may be sold at auction, however, homemade weapons or weapons of a contraband nature shall be destroyed.

(d) Any items determined to be contraband such as explosives, narcotics, etc., shall be destroyed.

(e) Items of a pharmaceutical nature, which, while not contraband when properly dispensed, or which are of an over-the-counter-variety, shall be destroyed.

(f) Foodstuffs, if sealed and undamaged may be turned over to any appropriate social service agency or destroyed, but shall not be auctioned.

(g) Alcohol products such as beer, wine, whiskey, etc., shall be destroyed.

(h) Items with a value in excess of $500 may be sold after advertising said item in a general circulation newspaper on at least two occasions. Such sales shall be by closed bid.

(Code 2003)

10-204. CLAIMING PROPERTY. The police department shall be required to make reasonable attempts to locate the owner of any property in storage. However, the responsibility for claiming and identifying any such property shall rest solely with the owner. (Code 2003)

10-205. PROOF OF OWNERSHIP. Claimants to any property in police storage shall be required to present reasonable proof of ownership and no property shall be released unless such reasonable proof is presented. (Code 2003)

10-206. AUCTION. At such time as it has been determined that an auction is necessary to dispose of unclaimed property, an inventory listing all property to be disposed of shall be prepared and kept on file in the police department. Notice of an auction shall be published at least twice in a general circulation newspaper prior to the date of the auction. The notice shall specify the date, time and place of the auction and shall also notify prospective buyers or potential claimants that a list of items to be auctioned is available at the police department and any claims on property must be made prior to the start of the auction. (Ord. 435, Sec. 3; Code 2003)

10-207. FAILURE OF OWNER TO CLAIM BEFORE SALE; SALE TO HIGHEST BIDDER. If the owner or person entitled to possession of property advertised under the preceding section shall fail to claim the same at any time before the date of such sale, then it shall be sold to the highest bidder therefore cash, and the purchaser thereof shall take a good and perfect title thereto. (Ord. 435, Sec. 4)

10-208. COSTS TO BE PAID BY OWNER IF PROPERTY CLAIMED AFTER PUBLICATION. If the owner or person entitled to the possession of property contemplated by this article, he or she shall pay they actual cost of publication, together with the actual cost of keeping such property during its custody. (Ord. 435, Sec. 5)

10-209. DISPOSITION OF PROCEEDS OF SALE. Any funds received from the sale of any property as provided in this article, less costs of publication and the cost of such sale, shall be paid over to the city treasurer for the law enforcement equipment fund. (Ord. 435, Sec. 6)

ARTICLE 3. POLICE FEES

10-301. FEE FOR POLICE RESPONSES TO PARTY. Definitions. As used in this article, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

Host: The person who owns or is in possession of the property where the party, gathering or event takes place, or the person in charge of the premises, or the person who organized the event. If the host is a minor, then the parents or guardians of that minor will be jointly and severally liable for the fee incurred for police services.

Party, Gathering or Event: An event involving a group of persons who have assembled or are assembling for a social occasion or for a social activity.

Police Services Fee: The cost to the city of any special security assignment, including, but not limited to, salaries of police officers while responding to or remaining at the party, gathering or event, the pro rata cost of equipment, the cost of repairing city equipment and property, the cost of any medical treatment of injured police officers, and the cost of reasonable attorney fees.

Special Security Assignment: The assignment of police officers, services and equipment during a second or subsequent response to the party, gathering or event after the delivery of a written notice to the host that a fee may be imposed for costs incurred by the city for any subsequent police response.
(Code 2003)

10-302. INITIAL POLICE RESPONSES TO PARTIES, GATHERINGS OR EVENTS. When any police officer responds to any party, gathering or event, and that police officer determines that there is a threat to the public peace, health, safety, or general welfare, the police officer shall issue a written notice to the host or hosts that a subsequent response to that same location or address within 24 hours of the first response shall be deemed a special security assignment rendered to provide security and order on behalf of the party, gathering or event and that the host may be liable for a police services fee as defined in this article. (Code 2003)

10-303. SUBSEQUENT POLICE RESPONSES TO PARTIES, GATHERINGS OR EVENTS; LIABILITY. If, after a written notice is issued pursuant to section 10-302, a subsequent police response or responses is necessary to the same location or address within 24 hours of the first response, such response or responses shall be deemed a special security assignment. Persons previously warned shall be jointly and severally liable for a police services fee as defined in this article.

The amount of the fee shall be a debt owned to the city by the person or person warned, and if he or she is a minor, his or her parents or guardians shall be jointly and severally liable for the debt.
(Code 2003)

10-304. COST; COLLECTION. The chief of police shall notify the city treasurer in writing of the performance of a special security assignment, of the name and address of the responsible person or persons, the date and time of the incident, the services performed, the costs and such other information as may be required. The city treasurer shall thereafter cause appropriate billings to be made. (Code 2003)

10-305. FALSE ALARM SERVICE FEE. Any person who maintains or has an alarm which has caused any signal, message or alarm to be transmitted to the police department, either by direct telephone or other direct communication, or by communication from an alarms agent, or an alarm business, or by a person responding to an audible alarm, and which is a third or greater false alarm in a 60 day period, shall pay a false alarm service fee of $60 which may from time to time be amended or changed by resolution of the city council. Failure to pay a false alarm service fee within 30 days shall be classified as a misdemeanor. (Code 2003)

ARTICLE 4. RESERVE POLICE FORCE

10-401. CREATION. There is created within the police department a reserve police force, the members of which shall be appointed by the chief of police and approved by the governing body. (Code 2003)

10-402. MEMBERS; VOLUNTARY SERVICE. Members of the reserve police force shall serve on a voluntary basis and without pay unless the pay is approved by the governing body. (Code 2003)

10-403. COMMANDING OFFICER DESIGNATED. The chief of police shall be the commanding officer of the reserve police force, and subject to the rules and regulations approved by the city governing body, shall have control of the assignment training, stationing, and direction in work of the members thereof. Members of the reserve police force shall have all police powers, subject to the rules and regulations and shall perform only such duties as are specifically assigned to them by the chief of police. (Code 2003)

10-404. REGULATORY AUTHORITY. The city governing body shall prescribe rules and regulations for the conduct, training and control of the reserve police force. (Code 2003)

CHAPTER XI. PUBLIC OFFENSES

ARTICLE 1. UNIFORM OFFENSE CODE

11-101. INCORPORATING UNIFORM PUBLIC OFFENSE CODE. There is hereby incorporated by reference for the purpose of regulating public offenses within the corporate limits of the City of Maize, Kansas, that certain code known as the "Uniform Public Offense Code," Edition of 2018, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, save and except such sections as are hereafter modified or changed. No less than one copy of the Uniform Public Offense Code shall be marked or stamped "Official Copy as adopted by Ordinance No. 947," with all changed sections clearly marked to show modifications and changes and to which shall be attached a copy of this Ordinance, filed with the city clerk to be open to inspection and available to the public at all reasonable hours. (Ord. 947, Sec. 1)

11-102. (a) AMENDED SECTION 10.5. Section 10.5 of the Uniform Public Offense Code, Edition of 2018, is hereby amended to read as follows:

UNLAWFUL DISCHARGE OF FIREARMS.

(a) Unlawful discharge of a firearm is the reckless discharge of a firearm within or into the corporate limits of the City.

(b) This section 11-102(a) shall not apply to the discharge of any firearm within or into the corporate limits of the City if:

(1) The firearm is discharged in the lawful defense of one's person, another person or one's property;

(2) The firearm is discharged at a private or public shooting range;

(3) The firearm is discharged to lawfully take wildlife unless prohibited by the department of wildlife, parks and tourism or the governing body of the City:

(4) The firearm is discharged by authorized law enforcement officers, animal control officers or a person who has a wildlife control permit issued by the Kansas department of wildlife, parks and tourism;

(5) The firearm is discharged by special permit of the Chief of Police;

(6) The firearm is discharged using blanks;

(7) The firearm is discharged in lawful self-defense or defense of another person against an animal attack. (K.S.A. Supp 21-6308a)

(8) The discharge of shotguns on one's own property, providing that the property is a parcel consisting of five (5) or more acres, and so long as the

discharge is no closer than three hundred (300) feet to any structure on any adjoining parcel of land. In addition to property owners of parcels identified above, these exceptions shall extend to leaseholders of single family dwellings, and/or persons with written permission granted by the property owner. However, persons under eighteen (18) years old otherwise eligible must be accompanied by and supervised by a parent, grandparent, or guardian.

Unlawful discharge of a firearm is a Class B violation. (Ord. 947, Sec. 2)

(b) Amended Section 10.6. Section 10.6 of the Uniform Public Offense Code, Edition of 2018 shall be amended to read as follows:

AIR GUN, AIR RIFLE, BOW AND ARROW, SLINGSHOT, BB GUN OR PAINT BALL GUN. The unlawful operation of an air gun, air rifle, bow and arrow, slingshot, BB gun or paint ball gun is the shooting, discharging or operating of any air gun, air rifle, bow and arrow, slingshot, BB gun or paint ball gun within the city, except within the confines of a building or other structure from which the projectiles cannot escape. This Section shall not be construed to apply to the shooting, discharging or operating of an air gun, air rifle, bow and arrow, slingshot, BB gun, pellet gun or paint ball gun on one's own property, provided that the property is a parcel consisting of five (5) or more acres, and so long as the shooting, discharging or operating is no closer than three hundred (300) feet to any structure on any adjoining parcel of land. In addition to property owners of parcels identified above, these exceptions shall extend to leaseholders of single family dwellings, and/or persons with written permission granted by the property owner. However, persons under eighteen (18) years of age otherwise eligible must be accompanied by and supervised by a parent, grandparent or guardian.

Unlawful operation of an air gun, air rifle, bow and arrow, slingshot, BB gun or paint ball gun is a Class C violation. (Ord. 947, Sec. 2)

(c) Amended Section 10.24. Section 10.24 of the Uniform Public Offense Code, Edition of 2016 shall be amended to read as follows:

SMOKING PROHIBITED. (a) It shall be unlawful, with no requirement of a culpable mental state, to smoke in an enclosed area or a public meeting including, but not limited to:

(1) public places;

(2) taxicabs and limousines;

(3) restrooms, lobbies, hallways and other common areas in public and private buildings, condominiums and other multiple-residential facilities;

(4) restrooms, lobbies and other common areas in hotels and motels and in at least 80% of the sleeping quarters within a hotel or motel that may be rented to guests;

(5) access points of all buildings and facilities not exempted pursuant to subsection (d);

(6) any place of employment; and

(7) in outside non-enclosed areas of land that are operated by the City, for example, but not limited to City Hall, city parks, the city community building, the city wastewater treatment facility, and City-owned wells where the areas of land are posted as follows: signs posted outside non-enclosed areas of land operated by the City that conspicuously display the international no smoking

symbol and clearly state that smoking is prohibited by Section 11-102(c) of the Code of the City of Maize, Kansas.

(b) Each employer having a place of employment that is an enclosed area shall provide a smoke-free workplace for all employees. Such employer shall also adopt and maintain a written smoking policy which shall prohibit smoking without exception in all areas of the place of employment. Such policy shall be communicated to all current employees within one week of its adoption and shall be communicated to all new employees upon hiring. Each employer shall provide a written copy of the smoking policy upon request to any current or prospective employee.

(c) Notwithstanding any other provision of this Section, 10.25 or 10.26, the proprietor or other person in charge of an adult care home, as defined in K.S.A. 39-923, and amendments thereto, or a medical care facility, may designate a portion of such adult care home, or the licensed long-term care unit of such medical care facility, as a smoking area, and smoking may be permitted within such designated smoking area.

(d) The provisions of this section shall not apply to:

(1) the outdoor areas of any building or facility beyond the access points of such building or facility;

(2) private homes or residences, except when such home or residence is used as a day care home, as defined in K.S.A. 65-530, and amendments thereto;

(3) a hotel or motel room rented to one or more guests if the total percentage of such hotel or motel rooms in such hotel or motel does not exceed 20%;

(4) the gaming floor of a lottery gaming facility or racetrack gaming facility, as those terms are defined in K.S.A. 74-8702, and amendments thereto;

(5) that portion of an adult care home, as defined in K.S.A. 39-923, and amendments thereto, that is expressly designated as a smoking area by the proprietor or other person in charge of such adult care home pursuant to subsection (c) and that is fully enclosed and ventilated;

(6) that portion of a licensed long-term care unit of a medical care facility that is expressly designated as a smoking area by the proprietor or other person in charge of such medical care facility pursuant to subsection (c) and that is fully enclosed and ventilated and to which access is restricted to the residents and their guests;

(7) tobacco shops;

(8) a Class A or Class B club defined in K.S.A. 41-2601, and amendments thereto, which (A) held a license pursuant to K.S.A. 41-2606 *et seq.*, and amendments thereto, as of January 1, 2009; and (B) notifies the secretary of health and environment in writing not later than 90 days after the effective date of this act, that it wishes to continue to allow smoking on its premises; and

(9) a private club in designated areas where minors are prohibited.

(10) any benefit cigar dinner or other cigar dinner of a substantially similar nature that: (A) is conducted specifically and exclusively for charitable purposes by a nonprofit organization which is exempt from federal income taxation pursuant to Section 501(c)(3) of the federal internal revenue code of 1986; (B) is conducted no more than once per calendar year by such organization; and (C) has been held during each of the three years prior to January 1, 2011; and

(11) that portion of a medical or clinical research facility constituting a separately ventilated, secure smoking room dedicated and used solely and exclusively for clinical research activities conducted in accordance with regulatory authority of the United States or the state of Kansas, as determined by the director of alcoholic beverage control of the department of revenue. (K.S.A. Supp. 21-6110). (Ord. 947, Sec. 2)

ARTICLE 2. LOCAL REGULATIONS

11-201. CURFEW; CERTAIN MINOR CHILDREN. (a) It is unlawful for any minor under the age of 18 years (minor) 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 other place unsupervised by an adult having the lawful authority to be at such place during the following periods of time:

(1) From July 1st through August 31st between the hours of 11:00 p.m. and 6:00 a.m. of the following days, except on Fridays and Saturdays when the hours shall be 12:00 a.m. to 6:00 a.m.; and,

(2) From September 1st through June 30th between the hours of 10:00 p.m. and 6:00 a.m. of the following days, except Fridays and Saturdays when the hours shall be 11:00 p.m. to 6:00 a.m.

(b) The provisions of this section shall not apply in the following instances:

(1) When a minor is accompanied by his or her parent, guardian or other adult person having the lawful care and custody of the minor;

(2) When the minor is upon an emergency errand directed by his or her parent or guardian or other adult person having the lawful care and custody of such minor;

(3) When the minor is returning directly home from a school activity, entertainment, recreational activity or dance;

(4) When the minor is returning directly home from lawful employment that makes it necessary to be in the above referenced places during the prescribed period of time;

(5) When the minor is on the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police officer about the minor's presence; and,

(6) When the minor 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.

(Ord. 574, Sec. 2)

11-202. RESPONSIBILITY OF PARENT, OR PERSON HAVING CUSTODY. Except in circumstances set out in section 11-201, it shall be unlawful for the parent, guardian or other adult person having the care and custody of a minor under the age of 18 years to permit such minor to loiter, idle, wander, stroll, or play in or upon the public streets, highway, roads, alleys, parks, playgrounds, or other public grounds, public places or public buildings, places of amusement or entertainment, eating places, vacant lots or other place unsupervised by an adult having the lawful authority to be at such place during the following periods of time:

(a) From July 1st through August 31st between the hours of 11:00 p.m. and 6:00 a.m. of the following days, except on Fridays and Saturdays when the hours shall be 12:00 a.m. to 6:00 a.m.; and,

(b) From September 1st through June 30th between the hours of 10:00 p.m. and 6:00 a.m. of the following days, except on Fridays and Saturdays when the hours shall be 11:00 p.m. to 6:00 a.m.

(Ord. 574, Sec. 2)

11-203. PENALTY. (a) Any minor violating the provisions of this article shall be dealt with in accordance with juvenile court law and procedure or may be prosecuted in the city municipal court and if so prosecuted shall be subject to a fine of not less than $25 and not more than $500.

(b) Any police officer finding a minor under the age of 18 years violating the provisions of this chapter shall cause a written notice to be served upon the parent, guardian or person in charge of such child, setting forth the manner in which the provisions of this article have been violated. For purposes of this section, notice shall be deemed properly served upon such parent, guardian or person in charge of a child if a copy thereof is served upon him or her personally or if a copy thereof is sent by certified mail, return receipt requested, to his or her last known address; provided further, if the notice cannot be conveniently served by the aforesaid, service of the notice is to be made upon such parent, guardian or person in charge of a child by at least one publication to contain the conditions and reasons of the notice. Any parent, guardian, or person having the care and custody of a child who shall permit such child to violate the provisions of the chapter after receiving written notice that such child has previously violated such provisions shall be subject to a fine of not less than $500. (Ord. 574, Sec. 2)

11-204. RESISTING ARREST. Resisting arrest is the use or force, or threat of force, to resist, obstruct or interfere with the arrest of a person or persons by a law enforcement officer or by a private person summoned and directed by a law enforcement officer to make the arrest, even if the person being arrested or other person resisting, obstructing or interfering with the arrest believes the arrest is unlawful.

Resisting Arrest is a Class A violation.

(Ord. 574, Sec. 3)

11-205. FAILURE TO APPEAR. (a) Failure to appear is willfully incurring a forfeiture of an appearance bond and failing to surrender one's self within 30 days following the date of such forfeiture by one who is charged with a misdemeanor and has been released on bond for appearance before the municipal court of the city for trial or other proceeding prior to conviction, or willfully incurring a forfeiture of an appearance bond and failing to surrender one's self within 30 days after his or her conviction of a misdemeanor has become final by one who has been released on an appearance bond by the court.

(b) Any person who is released upon his or her own recognizance without surety, or who fails to appear in response to a summons or traffic citation, shall be deemed a person released on bond for appearance within the meaning of subsection (a).

(c) The provisions of subsection (a) shall not apply to any person who forfeits a cash bond supplied pursuant to law upon an arrest for a traffic offense.

Failure to appear is a Class B violation.
(Ord. 574, Sec. 4)

11-206. WINDOW PEEPING. Window peeping is unlawfully entering upon the property occupied by another for the purpose of looking or peeping into any window, door, skylight or other opening in a house, room or building for the purpose of observing the occupant or occupants of the house, room or building. Window peeping is a Class C violation. (Ord. 574, Sec. 5)

11-207. URINATING IN PUBLIC. Urinating in public is urinating upon any highway, street, alley, sidewalk, park, upon the premises of any public place or building, or upon any public or private property in open view of any person, when the same has not been designed or designated as a rest room.

Urinating in public is a Class C violation. (Ord. 574, Sec. 6)

11-208. 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 amplifiers 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. (Ord. 574, Sec. 7)

11-209. POSSESSION OF DRUGS. Possession of drugs is manufacturing, possessing, controlling, prescribing, administering, delivering, distributing, dispensing, or compounding any depressant, stimulant or hallucinogenic drug in violation of the Kansas Uniform Controlled Substances Act (K.S.A. 65-4101 et seq.).

Possession of drugs is a Class A violation. (Ord. 574, Sec. 8)

11-210. POSSESSION OF MARIJUANA. Possession of marijuana is possessing or controlling marijuana in violation of the Kansas Uniform Controlled Substances Act (K.S.A. 65-4101 et seq.).

Possession of marijuana is a Class violation. (Ord. 574, Sec. 9)

11-211. POSSESSION OF DRUG PARAPHERNALIA. Possession of drug paraphernalia is possessing or controlling any instrument, device or drug paraphernalia which is used to possess, conceal, smoke, administer, manufacture, or sell any illegal drug pursuant to the Kansas Uniform Controlled Substances Act K.S.A. 65-4101 et. seq.).

Possession of drug paraphernalia is a Class A violation. (Ord. 574, Sec. 10)

11-212. [Repealed.] (Ord. 709, Sec. 1)

11-213. FALSELY REPRESENT ONESELF TO A LAW ENFORCEMENT OFFICER. (a) Any person who falsely represents or identifies himself or herself as another person or as a fictitious person to any law enforcement officer upon a lawful detention or arrest of the person, either to evade the process of the court, or

to evade the proper identification of the person by the investigating officer is guilty of a misdemeanor if (1) the false information is given while the law enforcement officer is engaged in the performance of his or her duties as a law enforcement officer and (2) the person providing the false information knows or should have known that the person receiving the information is a law enforcement officer.

(b) No person shall give, either orally or in writing, information to a law enforcement officer while in the performance of his or her duties when such person knows that the information is false.

Falsely representing oneself to a law enforcement officer is a Class B violation. (Ord. 574, Sec. 12)

11-214. UNLAWFUL DISCLOSURE OF A WARRANT. Unlawful disclosure of a warrant is revealing or making public in any way the fact that a search warrant or warrant of arrest has been applied for or issued or the contents of the affidavit or testimony on which such warrant is based prior to the execution thereof unless requested to do so by a law enforcement officer.

Unlawful disclosure of a warrant is a Class B violation. (Ord. 574, Sec. 13)

11-215. POSSESSION OF FALSE IDENTIFICATION DOCUMENTS. Possession of false identification documents is possession or use of any identification document which simulates, purports to be, or is designed so as to cause others reasonably to believe it to be an official identification document of the bearer and be as a fictitious name, date of birth, identification number, photograph, or other false information.

Possession of false information documents is a Class C violation. (Ord. 574, Sec. 14)

11-216. ABANDONED OR UNATTENDED VEHICLES ON CITY PROPERTY. (a) No person shall leave abandoned or unattended for a period in excess of 48 hours, any vehicle parked, stopped, or left standing, in or upon any parking lot which is owned by or under the control of the city without the consent of the mayor or governing body of the city.

(b) No person shall leave abandoned or unattended any vehicle parked, stopped, or left standing, on any street, alley, access easement, road or drive which is owned by the city, which blocks, restricts, or impedes the normal flow of vehicular traffic to other portions of any street, alley, access easement, road, or drive, or access to any building facility, park field, or work site owned by, or under the control of the city.

(c) No person shall park, stop or leave standing or unattended, any vehicle on any street designated as an emergency snow route.

(d) Any police officer is hereby authorized to remove, or cause to be removed to a place of safety, any vehicle found to be in violation of this section.

Abandonment of or leaving vehicles unattended is a Class C violation. (Ord. 574, Sec. 15)

11-217. [REPEALED; Ord. 817]

11-218. POSSESSION, USE, AND TRANSPORTATION OF EXPLOSIVES. (a) It shall be unlawful for any person to transport, use, or have in their possession or control, without lawful authority, any incendiary or explosive device, materials,

liquids, solvents, or mixtures, as defined by law, equipped with a fuse, wick, or other detonating device or substance, either in place or detached.

(b) It shall be unlawful for any person to have in their possession or control any illegal firecrackers or fireworks.

Possession, use, and transportation of explosives is a Class B violation. (Ord. 574, Sec. 17)

11-219. DANGEROUS MISSILES. It shall be unlawful for any person to throw or project any ball, stone, brick, piece of wood, clay, or other hard substance or object along, over, or upon any street, highway, alley, sidewalk, or public grounds or at or against any house, building, vehicle, or at or towards any person.

Dangerous missiles is a class C violation. (Ord. 574, Sec. 18)

11-220. INHALATION TOXIC VAPORS, GLUE, RELATED PRODUCTS. (a) It is unlawful for any person within the city limits to smell or inhale the fumes from any elements, compounds or combinations of both elements and compounds as defined in subsection (d) for the purpose of causing a condition of intoxication, hallucination, inebriation, excitement, stupefaction or the dulling of his or her brain or nervous system; provided, that nothing in this article shall be interpreted as applying to the inhalation of any anesthesia for medical, or dental purposes as prescribed or administered by duly authorized personnel.

(b) No person shall, for the purpose of violating this section, use or possess for the purpose of so using, any of the elements, compounds or combination of both elements and compounds as defined in subsection (d) of this section.

(c) No person shall sell, give or offer to sell or give to any other person any of the elements, compounds or combinations of both elements and compounds as defined in subsection (d) of this section.

(d) For the purposes of this article, elements compounds or combinations of both elements and compounds shall be defined as any material in a liquid, solid, or gaseous state, which contains one or more of the following chemical materials: Hydrocarbons, to include but not limited to propane, benzene, toluene; alcohols, to include but not limited to methyl, ethyl, isopropyl and butyl; volatile esters, to include but not limited to ethyl, acetate, butyl acetate, amyl acetate; ketones, to include but not limited to acetone, methyl ethyl ketone, methyl isobuytl ketone; halogenated hydrocarbons, to include but not limited to chloroform, ethylene dichloride, freon; halogenated derivatives of hydrocarbons, to include but not limited to pentachlorophenol; ethers, to include but not limited to ethyl ethers; and any elements, compounds or combination of both elements and compounds that produce a condition of intoxication, hallucination, inebriation, excitement, stupefaction or the dulling of his or her brain or nervous system.

Inhalation of toxic vapors, glue and related products is a Class A violation. (Ord. 574, Sec. 19)

11-221. MISTREATMENT OF A DEPENDENT ADULT. (a) Mistreatment of a dependent adult is knowingly and intentionally committing one or more of the following acts:

(1) Taking unfair advantage of a dependent adult's physical or financial resources for another individual's personal or financial advantage by the use of undue influence, coercion, harassment, duress, deception, false representation or false pretense by a caretaker or another person;

(2) Omitting or depriving treatment, goods, or services by a caretaker or another person which are necessary to maintain physical or mental health of a dependent adult.

(b) No dependent adult is considered to be mistreated for the sole reason that such dependent adult relies upon or is being furnished treatment by spiritual means through prayer in lieu of medical treatment in accordance with the tenets and practices of a recognized church or religious denomination of which such dependent adults is a member or adherent.

(c) For purposes of this section: Dependent Adult means an individual 18 years of age or older who is unable to protect their own interest. Such term shall include:

(1) Any resident of an adult care home including, but not limited to those facilities defined by K.S.A. 39-923 and amendments thereto;

(2) Any adult cared for in a private residence;

(3) Any individual kept, cared for, treated, boarded or otherwise accommodated in a medical care facility;

(4) Any individual with mental retardation or a developmental disability receiving services through a community mental retardation facility or residential facility licensed under K.S.A. 75-3307b and amendments thereto.

(5) Any individual with a developmental disability receiving services provided by a community service provider as provided in the developmental disability reform at; or

(6) Any individual kept, cared for, treated, boarded or otherwise accommodated in a state psychiatric hospital or state institution for the mentally retarded.

Mistreatment of a dependent adult is a Class A violation.
(Ord. 574, Sec. 20)

11-222. POSTING OBSCENITIES. It shall be unlawful for any person to post, paste, write, paint or inscribe any obscene or vulgar picture, design, or words at or on any place open to public view.

Posting obscenities is a Class C violation. (Ord. 574, Sec. 21)

11-223. VIOLATIONS; PENALTIES. (a) Penalties for violation of local public offenses shall be in accordance with the penalties specified in each section herein. When a section herein references a Class A, B, or C violation, the terms of confinement and fines are established for each class as set forth below:

(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;

(4) Unclassified violations, which shall include all offenses declared to be violation is without specification as to class or does not otherwise specify a penalty for violation, the sentence for which shall be in accordance with the sentence specified in the section that defines the offense; if no penalty is provided

in such law, the sentence shall be the same penalty as provided herein for a Class C violation.

(b) Upon conviction of a violation, a person may be punished by a fined, as provided in subsection (c) of this section, instead of or in addition to confinement, as provided in section 11-223(a)(1):(4).

(c) Fines. A person convicted of a violation 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 as follows:

(1) Class A violating, a sum not exceed $2,500.

(2) Class B violation, a sum not exceeding $1,000.

(3) Class C violation, a sum not exceeding $500.

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

(d) In addition to or in lieu of any other sentence authorized by law, 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 judicial district or licensed by the secretary of social and rehabilitation services.

(e) As an alternative to any of the above fines, the fine imposed may be fixed at any greater sum not exceeding double the pecuniary gain derived from the crime by the offender.

(Ord. 574, Sec. 22)

11-224. (a) As used in this Section 11-224:

(1) "Act" means the Personal and Family Protection Act as set forth at K.S.A. 2009 Supp. 75-7c01 *et seq.* and the Act is as amended at Chapter 140 of the 2010 Session Laws of Kansas and amendments thereto.

(2) "Attorney General" means the Attorney General of the State of Kansas.

(3) "Handgun" means a "firearm" as defined in K.S.A. 75-7b01 and amendments thereto.

(4) "Athletic Event" means athletic institutions, practices or competitions held at any location and includes any number of athletes.

(b) Provided that the premises are conspicuously posted in accordance with rules and regulations adopted by the Attorney General as premises where carrying a concealed handgun is prohibited, no license issued pursuant to or recognized by the Act shall authorize the licensee to carry a concealed handgun into the building of:

(1) any place where an activity declared a common nuisance by K.S.A. 22-3901 and amendments thereto is maintained;

(2) any police, sheriff or highway patrol station;

(3) any detention facility, prison or jail;

(4) any courthouse, except that nothing in this Section would preclude a judge from carrying a concealed handgun or determining who may carry a concealed handgun in the judge's courtroom;

(5) any polling place on the day an election is held;

(6) any state office;

(7) any facility hosting an Athletic Event not related to or involving firearms which is sponsored by a private or public elementary or secondary school or any private or public institution of postsecondary education;

(8) any facility hosting a professional Athletic Event not related to or involving firearms;

(9) any drinking establishment as defined by K.S.A. 41-2601 and amendments thereto;

(10) any elementary or secondary school, attendance center, administrative office, services center or other facility;

(11) any community college, college or university;

(12) any child exchange and visitation center provided for in K.S.A. 75-720 and amendments thereto;

(13) any community mental health center organized pursuant to K.S.A. 19-4001 *et seq.* and amendments thereto; any mental health clinic organized pursuant to K.S.A. 65-211 *et seq.* and amendments thereto; any psychiatric hospital licensed under K.S.A. 75-3307b and amendments thereto; or a state psychiatric hospital, as follows: Larned state hospital, Osawatomie state hospital or Rainbow mental health facility;

(14) any public library operated by the state;

(15) any day care home or group day care home, as defined in Kansas administrative regulation 28-4-113, or any preschool or child care center, as defined in Kansas administrative regulation 28-4-420; or

(16) any place of worship.

(c) Nothing in the Act shall be construed to prevent:

(1) any public or private employer from restricting or prohibited by personnel policies persons licensed under the Act from carrying a concealed handgun while on the premises of the employer's business or while engaged in the duties of the person's employment by the employer, except that no employer may prohibit possession of a handgun in a private means of conveyance, even if parked on the employer's premises; or

(2) any private business or city, county or political subdivision from restricting or prohibiting persons licensed or recognized under the Act from carrying a concealed handgun within a building or buildings of such entity, provided that the premises are posted in accordance with rules and regulations adopted by the Attorney General of the State of Kansas, as premises where carrying a concealed handgun is prohibited.

(d) (1) It shall be a violation of this Section to carry a concealed handgun in violation of any restriction or prohibition allowed by subsections (b) or (c) if the premises are posted in accordance with the rules and regulations adopted by the Attorney General of the State of Kansas. Any person who violates this Section shall be guilty of a misdemeanor punishable by a fine of: (A) not more than $50 for the first offense; or (B) not more than $100 for the second offense. Any third or subsequent offense is a class B misdemeanor.

(2) Notwithstanding the provisions of subsections (b) or (c), it is not a violation of this Section for the United States Attorney for the District of Kansas, the Attorney General, any district attorney or county attorney, any assistant United States Attorney if authorized by the United States Attorney for the District of Kansas, any assistant district attorney or county attorney if authorized by the district attorney or the county attorney by whom such assistant is employed, to possess a handgun within any of the buildings described in subsections (b) or (c),

subject to any restrictions or prohibitions imposed in any courtroom by the chief judge of the judicial district. The provisions of this paragraph shall not apply to any person who is not in compliance with K.S.A. 2009 Supp. 75-7c19 and amendments thereto.

(e) For the purposes of this Section, "building" shall not include any structure, or any area of any structure, designated for the parking of motor vehicles.

(f) Nothing in the Act shall be construed to authorize the carrying or possession of a handgun where prohibited by federal law.

(Ord. 817, Sec.4)

ARTICLE 3. REGULATION OF SEXUALLY ORIENTED BUSINESS ACTIVITIES

11-301. RECITALS.

WHEREAS, the City of Maize, Kansas (the "City") has determined that the regulation of adult cabarets, adult entertainment establishments, adult hotels, escort services (hereafter collectively referred to in these recitals as "sexually oriented business activities") and public nudity, as those terms are hereafter defined, will protect the health, safety, and welfare of the residents of the city and will minimize the secondary effects associated with such activities; and

WHEREAS, based upon the legislative findings discussed herein and recent court cases recognizing the secondary effects of sexually oriented business activities as well as public nudity, and the city's familiarity with the problems associated with these secondary effects within Sedgwick County and other areas throughout the country, the city finds that the continued regulation of sexually oriented business activities and public nudity furthers the goal of protecting the health, safety and welfare of the residents of the city, and minimizes the secondary effects of such activities; and

WHEREAS, the city desires to minimize and control these secondary effects and thereby protect the health, safety, and welfare of the citizenry; to protect citizens from increased crime; to preserve the quality of life; to preserve property values; to preserve the character of the city's neighborhoods and to deter the spread of blight; and

WHEREAS, the city has an important governmental interest in combating the secondary effects associated with sexually oriented business activities and public nudity, and has the constitutional power to combat these secondary effects; and

WHEREAS, as summarized below, the city has reviewed and analyzed numerous reports, studies, judicial decisions and the experience and legislative findings of other counties and municipalities around the country concerning the impacts, or secondary effects, of sexually oriented business activities on the areas in which such activities are located or take place; and

WHEREAS, the Supreme Court of the United States has held in *City of Renton v. Playtime Theaters, Inc.*, that the city may rely on relevant studies and

evidence from other cities as the basis for its action taken to ensure the public order and combat the secondary effects associated with sexually oriented business activities; and

WHEREAS, the Supreme Court of the United States has held in *Barnes v. Glen Theatre, Inc.*, and *City of Erie v. Pap's A.M., tbda "Candyland"*, that a governing body may prohibit nudity in public places to combat these secondary effects; and

WHEREAS, the United States Supreme Court in *City of Los Angeles v. Alameda Books, Inc.*, reaffirmed its earlier holdings that a municipal government may permissibly regulate the negative secondary effects associated with sexually oriented business activities; and

WHEREAS, the Tenth Circuit Court of Appeals, in cases such as *Heideman v. South Salt Lake City*, has continued to recognize the negative secondary effects (as summarized below) created by sexually oriented business activities; and

WHEREAS, sexually oriented business activities and public nudity can cause or contribute significantly to increases in criminal activity in the areas in which they are located, including increased incidents of unlawful sexual activities, including prostitution and inappropriate intimate conduct between sexually oriented business employees and patrons, violent acts such as assault and battery, sexual harassment, unlawful drug activities, and disorderly conduct, thereby taxing crime prevention and law enforcement resources; and

WHEREAS, sexually oriented business activities and public nudity can cause or contribute significantly to the deterioration of residential neighborhoods, can impair the character and quality of such neighborhoods and the housing located within such neighborhoods, and can inhibit the proper maintenance and growth of such neighborhoods, limiting or reducing the availability of quality, affordable housing for area residents and reducing the value of property in such areas; and

WHEREAS, sexually oriented business activities and public nudity can undermine the stability of other established business and commercial uses in the areas in which sexually oriented business activities occur and can cause or contribute significantly to the deterioration of such other businesses and commercial uses, thereby causing or contributing to a decline in such uses, an inhibition of business and commercial growth and development, and a resulting adverse impact on local government revenues and property values; and

WHEREAS, sexually oriented business activities and public nudity can have a distracting influence on minors and students attending schools, can diminish or destroy the enjoyment and family atmosphere of persons using parks, playgrounds and other public recreational areas, and can interfere with or even destroy the spiritual experience of persons attending church, synagogue, or other places of worship; and

WHEREAS, the presence of sexually oriented business activities is perceived by the public generally and by neighboring business owners and residents as an

indication that the area and the quality of life in the area in which such activities occur is in decline and deteriorating, a perception that can lead quickly to such decline and deterioration, prompting businesses and residents to flee the affected area to avoid the consequences of such decline and deterioration; and

WHEREAS, the conduct of sexually oriented business activities, including specifically, but without limitation, the operation and use of adult booths and similar establishments, often encourages or allows sexual activities that place employees and patrons of such businesses at risk to exposure and contraction of sexually transmitted diseases, including specifically, but without limitation, the HIV virus, Acquired Immune Deficiency Syndrome, and venereal diseases; and

WHEREAS, public nudity and the sexually oriented businesses that public nudity encourages can increase crime, especially crimes of a sexual nature, increase risk of public exposure to sexually transmitted diseases and other pathogens borne by human blood and bodily fluids, and can cause the degradation of the aesthetic and commercial character of neighborhoods, the depression of property values and the degradation of the quality of life for the citizenry; and

WHEREAS, prior to the passage of this article, the city received and analyzed extensive information concerning the secondary effects of sexually oriented businesses and public nudity. The foregoing legislative findings concerning secondary effects associated with sexually oriented business activities and public nudity are based upon the following:

(a) A review of information from studies and evidence developed for Adams County, CO, and the cities of Dallas, TX; Tucson, AZ; Garden Grove, CA; Oklahoma City, OK; Austin, TX; Indianapolis, IN; Phoenix, AZ; Amarillo, TX; and Los Angeles, CA;

(b) The legislative findings of the city council of Wichita referencing crime, increased risk of sexually transmitted diseases, degradation of the aesthetic and commercial character of neighborhoods, depression of property values and studies from ten other local jurisdictions (cited above) demonstrating the harmful effects of sexually oriented businesses;

(c) The findings of federal courts, including the United States Supreme Court, in *Renton v. Playtime Theaters, Inc.*, *Barnes v. Glen Theatre, Inc.*, *Erie v. Pap's A.M.*, *City of Los Angeles v. Alameda Books, Inc.*, and *Heideman v. South Salt Lake City* (10th Circuit case);

(d) Reports from the Sedgwick County Counselor's office and a citizen of the county concerning other court cases finding a link between sexually oriented businesses and negative secondary effects;

(e) A litany of complaints from residents of Oaklawn Improvement District, which is also within Sedgwick County, detailing the degrading effect of sexually oriented businesses within their neighborhood;

(f) A report from the undersheriff of Sedgwick County concerning crime at sexually oriented businesses;

(g) A petition signed by over 1,400 residents of Oaklawn Improvement District;

(h) April 12, 2000 Meeting Minutes from the Sedgwick County Board of County Commissioners Meeting;

(i) June 28, 2000 Meeting Minutes from the Sedgwick County Board of County Commissioners Meeting;

(j) March 31, 2004 Meeting Minutes from the Sedgwick County Board of County Commissioners Meeting; and

WHEREAS, the city has determined that sexually oriented business activities and public nudity will, unless properly regulated, have these and other severe adverse impacts and secondary effects on the city and its residents; and

WHEREAS, the city has determined that the regulations within this article on the operation, maintenance, and other aspects of sexually oriented business activities and the prohibition of public nudity, are necessary to minimize to the greatest extent possible, or to eliminate altogether, the public health risks that customarily, but unnecessarily, exist in connection with such activities; and

WHEREAS, the city has also determined that the regulations within this Article, including but not limited to, the licensing and zoning requirements for adult entertainment establishments and escort services, as well as the prohibition on public nudity, are necessary in order to achieve the goal of combating the secondary effects (described above) associated with sexually oriented business activities and public nudity; and

WHEREAS, it is not the intent of the city to suppress any free expression protected by the First Amendment to the United States Constitution, but to enact a content neutral Article which addresses the secondary effects associated with sexually oriented business activities and public nudity, with only incidental restrictions upon protected expression.
(Ord. 713, Sec. 1)

11-302. DEFINITIONS. For the purpose of this Article 3, the following terms, phrases and words shall have the meanings ascribed to them in this section:

(a) Adult Bookstore or Adult Video Store means an 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 an 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 materials which depict or describe specified sexual activities or specified anatomical areas.

(b) Adult Cabaret means any place of business or commercial establishment wherein the entertainment or activity therein consists of semi-nude dancing with or without music, or engaging in movements that simulate sexual intercourse, oral copulation, sodomy, or masturbation, or wherein the patron

directly or indirectly is charged a fee or is required to make a purchase in order to view entertainment or activity which consists of a person or persons exhibiting or modeling lingerie or similar undergarments, or where the patron directly or indirectly is charged a fee to engage in personal contact with employees, devices or equipment, or with personnel provided by the establishment.

(c) Adult Entertainment Establishment means any commercial establishment which is an adult bookstore, adult motion picture theater, adult hotel, adult cabaret or adult motion picture arcade as defined herein.

(d) 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 matter depicting or describing specified sexual activities or specified anatomical areas.

(e) Adult Motion Picture Arcade means any place at which slug- or coin-operated, electronically or mechanically controlled, still or motion picture machines, projector or other image-producing devices are maintained to show images to five (5) 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 for observation by patrons therein. The term does not include an adult hotel.

(f) Adult Motion Picture Theater means an enclosed building designed for five (5) 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 for observation of patrons therein. The term does not include an adult hotel.

(g) City means the City of Maize, Kansas.

(h) City Clerk means the City of Maize, Kansas, Clerk or his/her designee.

(i) Church means a premises or site used primarily or exclusively for religious worship and related religious services.

(j) Consideration means money or money's worth.

(k) 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.

(l) Employee means any and all persons including independent contractors who work in, at, or render any services to, the customers of an adult entertainment establishment or escort service, or who render any services directly related to the operation of an adult entertainment establishment or escort service but shall not include independent contractors indirectly related to such operation such as janitorial services, construction, maintenance, pest control, and trash removal.

(m) Escort means any person who is held out to the public as available for hire and who, for monetary consideration in the form of a fee, commission or salary, consorts with or accompanies, or who offers for monetary consideration, to consort with or accompany another or others to or about social affairs, places of entertainment or amusement within any place of public resort or within any private quarters.

(n) Escort Service means any person, as defined herein, which for a fee, commission, profit, reward, payment or other monetary consideration furnishes, refers, or offers to furnish or refer escorts, provides or offers to introduce patrons to escorts, or arranges for escorts to accompany patrons to or at social affairs,

places of entertainment or amusement within any place of public resort or within any private quarters.

(o) Escort Service Runner means any person, not an escort, who for a salary, fee, hire, reward, profit or other consideration, acts as an agent either of an escort, escort service or a patron wishing to hire an escort, in arranging for services of an escort.

(p) Licensed Premises means the place or location described in an adult entertainment license or an escort service license where an adult entertainment establishment or escort service is licensed to operate. No sidewalks, streets, parking areas, public rights-of-way, or grounds adjacent to any such place or location shall be included within the licensed premises.

(q) Licensee means a person who is the holder of a valid license under this article. A licensee includes an agent, servant, employee or other person while acting on behalf of that licensee whenever such licensee is or would be prohibited from doing or performing an act or acts under this title.

(r) Morals Charge includes charges of prostitution, patronizing a prostitute, promoting prostitution, indecent exposure, lewd and lascivious behavior, sodomy, promoting sodomy for hire, patronizing a person offering sodomy for hire, sexual battery, loitering for the purposes of solicitation, indecent liberties with a child, incest, adultery, promoting obscenity, promoting obscenity to minors, displaying material harmful to minors, and possession, sale or distribution of any illegal drug.

(s) Nudity means the showing, in a public place, of the human male or female genitals, anus, anal cleft or cleavage, or the showing of the female breast below a horizontal line across the top of the areola at its highest point with less than a fully opaque covering. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areola is not exposed in whole or in part. Nudity also means the showing, in a public place, of the covered male genitals in a discernibly turgid state.

(t) Open Office means an office at the licensed escort service address from which escort business is transacted. To qualify as an open office it is required that:

(1) Business hours be established and posted, that the office be open to the public and patrons or prospective patrons during such business hours, and that the office be accessible to business invitees, license officials and law enforcement officers through a security system during all other hours that escorts are working;

(2) The office be managed by the owner or management employee of the owner having authority to bind the service to escort and patron contracts, and adjust patron and consumer complaints;

(3) All telephone lines and numbers listed to the escort service be advertised as escort service numbers terminate at the open office and at no other location;

(4) An index of all employees and escorts bee kept in the open office, along with copies of the licenses of those employed to work as escorts or escort service runners, and said index shall be open to inspection at the request of any law enforcement officer who is on official duty;

(5) All business records be kept in the open office, including records of escort calls and referrals, stating the name and driver's license number (or other

form of picture identification) of the patron, as well as the state of issuance of the driver's license (or other picture identification). Such records shall also include the date and time of referral, name of the escort who accompanied the patron, whether the referral resulted in a contract, and the total fee received from the patron, if any. The business records described in this section shall be subject to inspection at the request of any law enforcement officer who is making said request for inspection at the request of any law enforcement officer who is making said request pursuant to said officer's lawful duties as a law enforcement officer. The refusal of a licensee to allow such an inspection shall not be a criminal violation of this article nor shall it be considered grounds for suspending, revoking, or otherwise taking punitive measures or action against the licensee or the escort service's license. However, in the event of such a refusal, such an inspection may be conducted upon the issuance of a valid search warrant, issued under the authority of K.S.A. 22-2501, and amendments thereto;

(6) All of the business records required to be kept and maintained by an escort service licensed under this article shall be retained by the escort service for a minimum period of one (1) year, and shall be subject to verification on a quarterly basis by the chief of police or the chief's duly authorized representative upon request. This quarterly examination of the records shall be permitted solely for the purpose of verifying that such records are being kept, and shall not be for the purpose of gathering information. Refusal by the licensee to allow examination of such records for the sole purpose of verifying that the licensee is in compliance with the recordkeeping requirements of this Article shall not be deemed to be a criminal violation; however, if the refusal is unreasonable it may result in revocation or suspension of the escort service's license.

(u) Operator means any person operating, maintaining or conducting the business of an adult entertainment establishment or escort service.

(v) Patron means a customer or any person who contracts with an escort service for the purpose of hiring an escort or for monetary consideration contracts with or hires an escort.

(w) Person means any individual, firm, corporation, partnership, limited partnership, joint venture or association of any kind.

(x) Public Nudity is any person knowingly and intentionally, in a public place:

(1) engaging in actual or simulated sexual intercourse, masturbation, sodomy, or any sex act which is prohibited by law;

(2) appearing in a state of nudity; or

(3) fondling of the genitals of himself, herself, or another person.

(y) Public Place means any location frequented by the public, or where the public is present or likely to be present. Public Place includes but is not limited to streets, sidewalks, parks, and business and commercial establishments (whether for profit or not-for-profit and whether open to the public at large or where entrance is limited by a cover charge or membership requirement).

(z) Residential Dwelling means a dwelling which provides a complete independent living facility for one (1) or more individuals including permanent provisions for living, sleeping, eating, cooking and sanitation.

(aa) School means any building or grounds used as a place of formal education for students in grade levels kindergarten through twelfth grade.

(bb) Sexually Oriented Escort means an escort who provides, or offers, proposes or solicits to provide, acts involving specified sexual activity. Such offer,

proposal or solicitation shall include all conversations, statements, advertisements, acts and gestures which would lead a reasonable, prudent person to conclude that specified sexual activity is or was to be provided.

(cc) Sexually Oriented Escort Service means an escort service which provides, or offers, proposes or solicits to provide, acts involving specified sexual activities. Such offer, proposal or solicitation shall include all conversations, statements, advertisements, acts and gestures which would lead a reasonable, prudent person to conclude that specified sexual activity is or was to be provided.

(dd) Semi-nude means a state of dress in which opaque clothing covers no more than genitalia, anus cleft or cleavage, pubic region and/or the female breast just above a horizontal line across the top of the areola at it highest point and portions of the body covered by supporting straps or devices.

(ee) Specified Sexual Activities means the following:

(1) Fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts.

(2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy.

(3) Masturbation, actual or simulated.

(4) Human genitals in a state of sexual stimulation, arousal or tumescence.

(5) Excretory functions as part of or in connection with any of the activities set forth in paragraphs (1), (2), (3) or (4) of this definition.

(ff) Specified Anatomical Areas means the following:

(1) Less than completely and opaquely covered human genitals, pubic region, buttock, anus and female breast below a point immediately above the top of the areola. This shall not include any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areola is not exposed.

(2) Human male genitals in a discernible turgid state, even if completely and opaquely covered.

(Ord. 713, Sec. 1)

11-303. PUBLIC NUDITY PROHIBITION. (a) PERMITTING PUBLIC NUDITY PROHIBITED. It is unlawful for any supervisor, manager, property owner, business owner, or employer to knowing suffer or permit any person to engage in public nudity in a public place under their control, or to knowingly suffer or permit any person to remain in such public place after that person has, while in the public place, engaged in public nudity.

(b) PUBLIC NUDITY PROHIBITED. It is unlawful for any person to engage in public nudity in a public place.

(c) EXCEPTIONS.

(1) The provisions of Section 11-303(a) and (b) shall not apply to any theatrical production that has serious literary, artistic, scientific or political value.

(2) The provisions of Section 11-303(a) and (b) shall not apply to:

a) a child under the age of ten (10) years; or

b) a person appearing in a state of nudity modeling in an art class operated by:

i) a proprietary school licensed by the state;

ii) a college, community college or university supported entirely or primarily by taxation;

iii) an accredited private college or university, or

iv) a non-profit educational or artistic organization:

a.) held within a structure in which no sign or advertising is visible on or from the exterior of the structure that indicates a nude person is available on the premises for viewing;

b.) where in order to attend a student must enroll at least three days in advance; and

c.) where no more than one nude model appears in the studio at one time.

(3) The provisions of Section 11-303(a) and (b) of this Article 3 shall not apply to:

a) enclosed single sex public restrooms or restrooms designed for family use;

b) enclosed single sex functional baths, showers, locker and/or dressing room facilities;

c) enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations; and

d) medical facilities, hospitals, and similar places in which nudity or exposure is necessarily and customarily expected outside of the home.

(Ord. 713, Sec. 1)

11-304. ESCORT SERVICES. (a) PURPOSE. The purpose of this Section 11-304 is to set forth the requirements for escort services within the corporate city limits of the city and to provide for the regulation of the same.

(b) LICENSE REQUIRED. It is unlawful within the city limits of the city for any person, whether as principal, officer, agent, servant or employee to conduct, manage, operate, maintain or perform for any person services as an escort service without having first obtained a license to do so as required by this Article 3.

(c) SEXUALLY ORIENTED ESCORT SERVICES UNLAWFUL. It is unlawful within the city limits of the city for any person, whether as principal, officer, agent, servant or employee, to conduct, manage, operate, maintain or perform for any person services as a sexually oriented escort service regardless of license.

(d) LICENSE EXCLUSIVE TO PERSON AND PREMISES ISSUED.

(1) The license required pursuant to this Section 11-304 shall be issued for one (1) premises and one (1) person. The address of the premises for which the license is requested and the name of the person who will be the licensee shall be clearly stated in all applications and renewal requests.

(2) Licenses issued hereunder may not be transferred from one premises to another or from one person to another, and shall be renewable only if the renewal license is to be issued to the same person. Within thirty (30) days after the sale or transfer of any interest in an escort service, any license heretofore issued shall be null and void. A new application shall be made by any person desiring to won or operate the escort service.

(3) No escort service shall be operated under any name or conducted under any designation not specified in the license for that business.

(e) LICENSE FEES.

(1) For every escort service there shall be an annual license fee of One Thousand Dollars ($1,000.00). This fee shall accompany all initial license

applications and all renewal requests, and a license shall not be issued until the fee is paid in full.

(2) Should an applicant choose to withdraw its application prior to a license under Section 11-304 being issued, the city shall refund fifty percent (50%) of the license fee upon the applicant's request to the city clerk within ten (10) business days from the filing of an application and accompanying documentation. No refund shall be issued after issuance of a license.

(3) Upon a denial of a properly filed application under Section 11-304, the city shall refund fifty percent (50%) of the license fee upon the applicant's request to the city clerk within twenty (20) business days, but not sooner than ten (10) business days, of the notice of said denial, unless the applicant appeals the denial, in which case the refund shall not occur until after the appeal process has been completed and the denial has been upheld. At the conclusion of the appeal, provided the denial is upheld, the applicant shall have ten (10) business days from the date of final judgment to request the refund.

(f) LICENSE RENEWAL. Every license issued pursuant to Section 11-304 shall terminate at the expiration of one (1) year from the date of issuance, unless sooner suspended or revoked, 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 11-309. A renewal application shall in all other respects be treated as an application for an initial license.

Application for a license renewal must be made not later than thirty (30) days prior to the date of expiration of the license.

(g) APPLICABILITY OF REGULATIONS TO EXISTING BUSINESSES. The licensing provisions of this Section 11-304 shall be applicable to all businesses participating in the activities described in this Section 11-304, regardless of when established. All existing escort services at the time of passage of this Article 3 must submit an application for a license within thirty (30) days of the effective date of this Article 3. If an application for such license is not made within said thirty-day period, then such existing escort service shall cease operation. Nothing herein shall be construed to prohibit the city's right to refuse to grant a license to an existing escort service that, upon application, is not eligible for a license under this Section 11-304.

(h) DISPLAY OF LICENSE REQUIRED. The license issued pursuant to this Section 11-304 shall be displayed conspicuously at the entrance of the premises licensed as an escort service.

(i) APPLICATION FOR ESCORT SERVICE LICENSE.

(1) Any person desiring to obtain a license to operate an escort service shall make written 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.

(2) The application shall be on a form provided by the city. All applicants shall provide the following information under oath:

a) The applicant's legal name, all of the applicant's aliases, the applicant's residential and business addresses, the applicant's residential and business telephone numbers, the applicant's social security number, the

applicant's driver's license or state-issued identification card number, written proof that the applicant is at least eighteen (18) years of age, the citizenship and place of birth of the applicant and, if a naturalized citizen, the time and place of his or her naturalization;

b) The proposed address and name or names of the escort service for which a license is sought, and the hours that the escort service will be open to the public;

c) The name of the owner of the premises upon which the escort service is to be located;

d) Whether the applicant has been, within the last five (5) years immediately preceding the date of the application, convicted of, pleaded *nolo contendere* to, or participated in a diversion for any morals charge or felony. As to each conviction, *nolo contendere* plea or diversion, the applicant shall provide the conviction date, the case number, the nature of the violation(s) or offense(s), and the name and location of the court;

e) Whether the applicant has been, within the last three (3) years immediately preceding the date of the application, convicted of, pleaded *nolo contendere* to, or participated in a diversion for any violation of a provision of this Article 3 or similar provisions of previously enacted city ordinances;

f) A list of all pending cases involving:

i) alleged violations of morals charges, including the nature of the alleged violation, date of alleged offense, and the name and location of the jurisdiction in which said violation is alleged to have occurred; and

ii) alleged violations of this Article 3, including the nature of the alleged violation(s) and the date of the alleged offense(s);

g) Two (2) photographs of the applicant two inches by two inches (2" x 2") in size, taken within thirty (30) days immediately preceding the date of application. One photograph will be sent to the chief of police and one photograph shall be affixed to the license;

h) Information as to whether the applicant has ever been refused any similar license or permit, or has had any similar license or permit issued to such applicant in the city or elsewhere revoked or suspended, and the reason or reasons therefor; and

i) A statement by the applicant that he or she is familiar with the provisions of this Article 3 and is complying and will comply with them.

(3) If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation or charter, together with the state and date of incorporation, the names, residential addresses, and dates of birth of each of its current officers and directors, and each stockholder holding more than five percent (5%) of the stock in the corporation. The corporation applicant shall designate one of its officers to act as its responsible managing officer. Such designated person shall complete and sign all application forms and provide all information required in subsection (b) of this section, but only one application fee shall be charged.

(4) If the applicant is a partnership, the application shall set forth the names, residential addresses, and dates of birth of each of the partners, including limited partners. If the applicant is a limited partnership, it shall furnish a copy of its certificate of limited partnership. If one or more of the partners is a corporation, the provisions of subsection (c) of this section pertaining to corporations shall apply. The partnership or limited partnership applicant shall designate one of its partners

to act as its responsible managing partner. Such designated person shall complete and sign all application forms and provide all information required in subsection (b) of this section, but only one application fee shall be charged.

(j) LICENSE – ELIGIBILITY REQUIREMENTS.

(1) To receive a license to operate an escort service, applicants must meet the following standards:

a) If the applicant is an individual:

i) the required fees must have been paid;

ii) the application must conform in all respects to the provisions of this Article 3;

iii) the applicant must not have knowingly made a false or misleading statement of material fact in the application;

iv) the applicant must be at least eighteen (18) years of age;

v) the applicant shall not have been convicted of, 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 (5) years immediately preceding the date of the application;

vi) the applicant must not have had a similar type of license in any jurisdiction previously suspended or revoked for good cause within five (5) years immediately preceding the date of the filing of the application;

vii) the operation of the business as proposed, if permitted, must comply with all applicable building, fire, health and zoning laws.

(b) If the applicant is a partnership, joint venture, corporation or any other type of organization where two (2) or more persons have a financial interest:

i) All persons having a financial interest in the partnership, joint venture or any other type of organization shall be at least eighteen (18) years of age. Financial interest in a corporation includes any officer or director of the corporation and any stockholder holding more than five percent (5%) of the stock of a corporation or any individual, partnership, and/or corporation which has outstanding or pending loan(s) with the applicant in the amount of $5,000 or greater.

ii) No person having a financial interest in the partnership, joint venture, corporation or any other type of organization shall, in any jurisdiction, have been convicted of, pled *nolo contendere* to, or participate in a diversion program, after having been charged with a felony or any morals charge as defined herein within the immediate five (5) years preceding the date of the application.

(k) EXAMINATION OF APPLICATION. If an application for a license is in proper form and accompanied by the license fee as provided for in this Section 11-304(e)(1), the city council shall examine the application, after review and a recommendation is made by the city application review board, composed of the city administrator or his/her designee, the city clerk or his/her designee, the zoning administrator or his/her designee, and the chief of police or his/her designee. If the applicant is fully qualified pursuant to the guidelines set forth in Section 11-304(j), the city council shall issue a license to the applicant within thirty (30) days from the date of the filing of the application. If the city council fails to act on the application within thirty (30) days after it is filed, the application shall be deemed granted. If the city council denies the application within thirty (30) days of the filing of the application, the application is deemed finally denied and the same application may not be made within one (1) 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. If the city council takes action to deny an application, and that action occurs over thirty (30) days after it is filed, the denial shall be of no effect, except that this provision is not intended to limit the ability of the city council to revoke the license for any of the reasons stated in this Section 11-306. If the applicant is not present in person or by an attorney during the city council session in which action is taken, written notice of the action shall be mailed to the applicant or attorney forthwith.

(l) COMPLIANCE WITH OTHER REGULATIONS REQUIRED. No license shall be granted for an escort service until the health code, building code, zoning ordinance, fire prevention and safety regulations of the city are fully complied with, and it is unlawful and a violation of this Article 3 to maintain or conduct an escort service without being in compliance, at all times, with all health code, building code, zoning ordinance, fire prevention and safety regulations of the city.

(m) ESCORT SERVICE DUTIES.

(1) The escort service shall provide to each patron a written contract and receipt of payment for services. The contract shall clearly state the type(s) of service(s) to be performed, the length of time such service(s) shall be performed, the total amount of money such service(s) shall cost the patron, and any special terms or conditions relating to the services to be performed.

(2) The escort service shall maintain an open office at the licensed premises. The address of that office shall be included in all patron contracts and published advertisements. Private rooms or booths where the patron may meet with the escort shall not be provided at the open office or at any other location by the escort service.

(3) The escort service, in terms of licensing consequences, is responsible and liable for the acts of all its employees and subcontractors including, but not limited to, telephone receptionists and escorts who are referred by that service while the escort is with the patron.

(4) The escort service shall commence business from an open office within thirty (30) days after issuance of the license. In the event an escort service licensee shall not commence business in an open office within thirty (30) days after issuance of a license, or shall discontinue business or close the open office for a period of thirty (30) days, such license shall terminate and be revoked automatically without action by the chief of police or city council.

(5) Every owner, operator, responsible managing employee, manager, or anyone in control of an escort service shall maintain a daily register, approved as to form by the city police department, containing the following information:

a) the identification of all employees employed by such establishment, together with a copy of the escort license for those employees working as escorts;

b) the hours of employment of each employee for each day; and

c) the names of all patrons, including their true full names, driver's license number and state of issuance (or some other form of picture identification), hours of employment of the escort service, name of the escort or other employees providing services to this particular patron, the location where escort services were rendered, and the fee charged for such services.

The daily register described in this section shall be subject to inspection at the request of any law enforcement officer who is making said request for inspection pursuant to said officer's lawful duties as a law enforcement

officer. The refusal of a licensee to allow such an inspection shall not be a criminal violation of this Article 3 nor shall it be considered grounds for suspending, revoking or otherwise taking punitive measures of action against the licensee or the escort service's license. However, in the event of such a refusal, an inspection may be conducted upon the issuance of a valid search warrant, issued under the authority of K.S.A. 22-201, and amendments thereto. The daily register described in this section shall be kept and maintained at the open office or licensed premises for a period of one (1) year.

(6) Any changes in information required to be submitted by this article 3 must be given to the city clerk's office in writing within ten (10) days of any such change.

(7) An escort service shall establish business hours during which escorts are available and shall post such business hours at the entrance to the escort service premises, where the open office is maintained. No escort service shall be open at any time between the hours of 1:00 a.m. and 6:00 a.m.

(n) PROHIBITED ACTIVITIES.

(1) It is unlawful for a licensee to provide escort services as described in this Article 3 to individuals under eighteen (18) years of age unless written authorization by a parent or legal guardian is issued to the escort when acting as such.

(2) It is unlawful within the city limits of the city for an escort to advertise or hold out to the public the availability of an escort or escort service without obtaining a license therefor as provided in this Section 11-304. Whether the actual business of the escorts or the escort service is performed, the escort service license number must be prominently displayed in such advertisements.

(o) ESCORT/ESCORT SERVICE RUNNER - LICENSE REQUIRED.

(1) It is unlawful for any person within the city limits of the city to:

a) work, perform services, or act as an escort or escort service runner as defined in this Article 3 without a license issued pursuant to the provisions of this Article 3;

b) work, perform services, or act as an escort or escort service runner unless employed by a licensed escort service;

c) work, perform services, or act as a sexually oriented escort, or work as an escort service runner for a sexually oriented escort service, regardless of license.

(2) Such person, when providing services or working as an escort or escort service runner, shall carry the license required by Section 11-304(o)(1) upon their person and display the license upon request of any law enforcement official. Failure to display such license upon demand is a violation of this ordinance punishable as set forth in Section 11-310.

(p) ESCORT/ESCORT SERVICE RUNNER--LICENSE APPLICATION, RENEWAL.

(1) Any person desiring an escort or escort service runner's license shall make written application in duplicate to the city clerk's office on a form provided by the city. 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 and shall provide the following information under oath:

a) The applicant's legal name, all of the applicant's aliases, the applicant's residential address and telephone numbers, the applicant's social security number, the applicant's driver's license or state-issued identification card

number, written proof that the applicant is at least eighteen (18) years of age, the citizenship and place of birth of the applicant and, if a naturalized citizen, the time and place of his or her naturalization;

b) Whether the applicant has been, within the last five (5) years immediately preceding the date of the application, convicted of, pleaded *nolo contendere* to, or participated in a diversion for any morals charge or felony. As to each conviction, *nolo contendere* plea or diversion, the applicant shall provide the conviction date, the case number, the nature of the violation(s) or offense(s), and the name and location of the court;

c) Whether the applicant has been, within the last three (3) years immediately preceding the date of the application, convicted of, pleaded *nolo contendere* to, or participated in a diversion for any violation of a provision of this Article 3 or similar provisions of previously enacted city ordinances;

d) A list of all pending cases involving: (i) alleged violations of morals charges, including the nature of the alleged violation, date of alleged offense, and the name and location of the jurisdiction in which said violation is alleged to have occurred; and (ii) alleged violation of this Article 3, including the nature of the alleged violation and the date of the alleged offense;

e) Two (2) photographs of the applicant two inches by two inches (2" x 2") in size, taken within thirty (30) days immediately preceding the date of application. One photograph will be sent to the chief of police and one photograph shall be affixed to the license;

f) A statement by the applicant that he or she is familiar with the provisions of this Article 3 and is complying and will comply with them.

(2) All persons working or providing services as escorts or escort service runners at the time of the passage of this article must submit an application for an escort or escort service runner's license within thirty (30) days of the date this Article 3 becomes effective.

(3) Every escort or escort service runner's license issued pursuant to this Article 3 will expire one (1) year from the date of issuance and must be renewed before working or performing services as an escort or escort service runner in the following year. Application for renewal must be made to the city clerk no later than thirty (30) days prior to the date of expiration for the escort or escort service runner's license, and must be accompanied by the license fee provided in Section 11-304(q).

(4) A license to act as an escort or escort service runner does not authorize the operation of an escort service. Any person obtaining a license to act as an escort or escort service runner who desires to operate an escort service must separately apply for a license therefor. A person who applies for a license to operate an escort service and who desires to act as an escort or escort service runner within said business, who pays the fee required by Section 11-304(e), shall not be required to pay the license fee required in Section 11-304(q).

(q) ESCORT/ESCORT SERVICE RUNNER--LICENSE FEES. There shall be an annual fee of One Hundred Dollars ($100.00) for an escort or escort service runner's license and such fee shall accompany each application and all renewal requests submitted, and a license shall not be issued until the fee is paid in full.

(r) ESCORT/ESCORT SERVICE RUNNER--LICENSE ELIGIBILITY.

(1) If the application contains the proper information pursuant to Section 11-304(p), a copy of each application for an escort or escort service runner's license shall be forwarded to the chief of police for investigation. It shall

be the duty of the chief of police to investigate such applicant to determine whether he or she is qualified under the provisions of this Article 3. The chief of police shall report to the city clerk not later than ten (10) working days after receipt of the application. The city clerk shall issue a license if the applicant is fully qualified pursuant to the guidelines set forth in Section 11-304(r)(2). A denial of a license by the city clerk must be made in writing with the reasons for the denial stated therein. Any applicant who has been denied the issuance of an escort or escort service runner's license by the city clerk shall have a right to file an appeal of the denial with the city council not later than ten (10) working days after the application has been denied by the city clerk. Any applicant denied a license by the city council shall have the right to appeal as set forth in K.S.A. 60-2101(d).

(2) No license to work or perform services as an escort or an escort service runner shall be issued to:

a) Any person who has not paid the fee under Section 11-304(q);

b) Any person who has not attained eighteen (18) years of age;

c) Any person who has failed to file an application that conforms in all respects to the provisions of Section 11-304(p);

d) Any person who has 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 (5) years immediately preceding the date of the application;

e) Any person who has knowingly made a false or misleading statement of a material fact or omission of material fact in their application for an escort or escort service runner's license.

(s) SUSPENSION OR REVOCATION OF AN ESCORT/ESCORT SERVICE RUNNER'S LICENSE.

(1) Pursuant to the procedures set forth in Section 11-306(c), the chief of police may suspend for not more than thirty (30) days any escort or escort service runner’s license if the chief of police, based on credible and reasonably reliable information and evidence, determines that the escort or escort service runner has violated any provisions of this Article 3.

(2) Pursuant to the procedures set forth in Section 11-306(c), the chief of police may revoke any escort or escort service runner’s license, regardless of whether such license has previously been suspended, if the chief of police, based on credible and reasonably reliable information and evidence, determines that any one (1) or more of the following has occurred:

a) The escort or escort service runner:

i) knowingly, recklessly or negligently furnished false or misleading information or withheld information on any application or other document submitted to the city for the issuance or renewal of any escort or escort service runner’s license; or

ii) knowingly, recklessly or negligently caused or suffered any other person to furnish or withhold any such information on the licensee’s behalf.

b) The escort or escort service Runner failed to pay the required fee under Section 11-304(q).

c) The escort or escort service runner has, on three (3) or more occasions within a twelve (12) month period of time, engaged in conduct in violation of any of the provisions of this Article 3.

d) The escort or escort service runner has become ineligible to obtain a license pursuant to Section 11-304(r).

e) Subsequent to obtaining an escort or escort service runner's license, the licensee has been convicted of, 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.

(3) The licensee may appeal such order of suspension or revocation pursuant to the terms in Section 11-306(c)(2).
(Ord. 713, Sec. 1)

11-305. ADULT ENTERTAINMENT ESTABLISHMENTS AND ADULT HOTELS. (a) PURPOSE. The purpose of this Section 11-305 is to set forth the requirements for adult entertainment establishments within the corporate city limits of the city and to provide for the regulation of the same.

(b) LICENSED REQUIRED.

(1) Except as provided in subsection (5) below, from and after the effective date of this Article 3, no adult entertainment establishment shall be operated or maintained within the city limits of the city without first obtaining a license to operate issued pursuant to Section 11-305.

(2) A license may be issued only for one adult entertainment establishment located at a fixed certain place. Any person which desires to operate more than one adult entertainment establishment must have a license for each.

(3) No license or interest in a license may be transferred to any other person.

(4) 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.

(5) The licensing provisions of this Section 11-305 shall be applicable to all businesses participating in the activities described in this Section 11-305, regardless of when established. All existing adult entertainment establishments at the time of passage of this Article 3 must submit an application for a license within thirty (30) days of the effective date of this Article 3. If an application for such license is not made within a thirty-day period, then such existing adult entertainment establishments shall cease operation. Nothing herein shall be construed to prohibit the city's right to refuse to grant a license to an adult entertainment establishment service that, upon application, is not eligible for a license under Section 11-305.

All existing adult entertainment establishments at the time of passage of this Article 3 must submit an application for a license within thirty (30) days of the date this Article becomes effective. If an application for such license is not made within a thirty-day period, then such existing adult entertainment establishment shall cease operation. Nothing herein shall be construed 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 under Section 11-305.

(c) APPLICATION FOR ADULT ENTERTAINMENT ESTABLISHMENT LICENSE.

(1) Any person desiring to obtain a license to operate or maintain an adult entertainment establishment shall make written 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.

(2) The application shall be on a form provided by the city. All applicants shall provide the following information under oath:

a) The applicant's legal name, all of the applicant's aliases, the applicant's residential and business addresses, the applicant's residential and business telephone numbers, the applicant's social security number, the applicant's driver's license or state-issued identification card number, written proof that the applicant is at least eighteen (18) years of age, the citizenship and place of birth of the applicant and, if a naturalized citizen, the time and place of his or her naturalization;

b) The proposed address and name or names of the adult entertainment establishments for which a license is sought, and the hours that the adult entertainment establishment will be open to the public;

c) The name of the owner of the premises upon which the adult entertainment establishment is to be located;

d) Whether the applicant has been, within the last five (5) years immediately preceding the date of the application, convicted of, pleaded *nolo contendere* to, or participated in a diversion for any morals charge or felony. As to each conviction, *nolo contendere* plea or diversion, the applicant shall provide the conviction date, the case number, the nature of the violation(s) or offense(s), and the name and location of the court;

e) Whether the applicant has been, within the last three (3) years immediately preceding the date of the application, convicted of, pleaded *nolo contendere* to, or participated in a diversion for any violation of a provision of this Article 3 or similar provisions of previously enacted city ordinances;

f) A list of all pending cases involving:

i) alleged violations of morals charges, including the nature of the alleged violation, date of alleged offense, and the name and location of the jurisdiction in which said violation is alleged to have occurred; and

ii) alleged violations of this Article 3, including the nature of the alleged violation(s) and the date of the alleged offense(s);

g) Two (2) photographs of the applicant two inches by two inches (2" x 2") in size, taken within thirty (30) days immediately preceding the date of application. One photograph will be sent to the chief of police and one photograph shall be affixed to the license;

h) Information as to whether the applicant has ever been refused any similar license or permit, or has had any similar license or permit issued to such applicant in the city or elsewhere revoked or suspended, and the reason or reasons therefor; and

i) A statement by the applicant that he or she is familiar with the provisions of this Article 3 and is complying and will comply with them.

(3) If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation or charter, together with the state and date of incorporation, the names, residential addresses, and dates of birth of each of its current officers and directors, and each stockholder holding more than five percent (5%) of the stock in the corporation. The corporation applicant shall designate one of its officers to act as its responsible managing officer. Such designated person shall complete and sign all application

forms and provide all information required in subsection (b) of this section, but only one application fee shall be charged.

(4) If the applicant is a partnership, the application shall set forth the names, residential addresses, and dates of birth of each of the partners, including limited partners. If the applicant is a limited partnership, it shall furnish a copy of its certificate of limited partnership. If one or more of the partners is a corporation, the provisions of subsection (c) of this Section 11-305 pertaining to corporations shall apply. The partnership or limited partnership applicant shall designate one of its partners to act as its responsible managing partner. Such designated person shall complete and sign all application forms and provide all information required in subsection (b) of this Section 11-305, but only one application fee shall be charged.

(d) LICENSE FEES.

(1) For any adult entertainment establishment there shall be an annual license fee of One Thousand Dollars ($1,000.00). This fee shall accompany all initial license applications and all renewal requests, and a license shall not be issued until the fee is paid in full.

(2) Should an applicant choose to withdraw its application prior to a license under Section 11-305 being issued, the city shall refund fifty percent (50%) of the license fee upon the applicant's request to the city clerk within ten (10) business days from the filing of an application and accompanying documentation, and prior to a license being issued. No refund shall be issued after issuance of a license.

(3) Upon a denial of a properly filed application under Section 11-305, the city shall refund fifty percent (50%) of the license fee upon the applicant's request to the city clerk within twenty (20) business days, but not sooner than ten (10) business days, of the notice of said denial, unless the applicant appeals the denial, in which case the refund shall not occur until after the appeal process has been completed and the denial has been upheld. At the conclusion of the appeal, provided the denial is upheld, the applicant shall have ten (10) business days from the date of final judgment to request the refund.

(e) LICENSE – ELIGIBILITY REQUIREMENTS. To receive a license to operate an adult entertainment establishment, applicants must meet the following standards:

(1) If the applicant is an individual:

a) The required fees must have been paid;

b) The application must conform in all respects to the provisions of this Article 3;

c) The applicant must not have knowingly made a false or misleading statement of a material fact in the application;

d) The applicant must be at least eighteen (18) years of age;

e) The applicant shall not have been convicted of, 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 (5) years immediately preceding the date of the application;

f) The applicant must not have had a similar type of license in any jurisdiction previously suspended or revoked for good cause within five (5) years immediately preceding the date of the filing of the application;

g) The operation of the business as proposed, if permitted, must comply with all applicable building, fire, health and zoning laws.

(2) If the applicant is a partnership, joint venture, corporation or any other type of organization where two (2) 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 eighteen (18) years of age. Financial interest in a corporation includes any officer or director of the corporation and any stockholder holding more than five percent (5%) of the stock of a corporation or any individual, partnership, and/or corporation which has outstanding or pending loan(s) with the applicant in the amount of $5,000.00 or greater.

b) No person having a financial interest in the partnership, joint venture, corporation or any other type of organization shall, in any jurisdiction, have been convicted of, pleaded *nolo contendere* to, or participate in a diversion program, after having been charged with a felony or any morals charge as defined herein within the immediate five (5) years preceding the date of the application.

(f) EXAMINATION OF APPLICATION. If an application for a license is in proper form and accompanied by the license fee as provided for in Section 11-305(d), the city council shall examine the application, after review and a recommendation is made by the city application review board, composed of the city clerk or his/her designee, the zoning administrator or his/her designee, and the chief of police or his/her designee. If the applicant is fully qualified pursuant to the guidelines set forth in Section 11-305(e), the city council shall issue a license to the applicant within thirty (30) days from the date of the filing of the application. If the city council fails to act on the application within thirty (30) days after it is filed, the application shall be deemed granted. If the city council denies the application within thirty (30) days of the filing of the application, the application is deemed finally denied and the same application may not be made within one (1) 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. If the city council takes action to deny an application, and that action occurs over thirty (30) days after it is filed, the denial shall be of no effect, except that this provision is not intended to limit the ability of the city council to revoke the license for any of the reasons in Section 11-306. If the applicant is not present in person or by an attorney during the city council session in which action is taken, written notice of the action shall be mailed to the applicant or attorney forthwith.

(g) DISPLAY OF LICENSED REQUIRED. The license issued pursuant to Section 11-305 shall be displayed conspicuously at the entrance of the premises licensed as an adult entertainment establishment.

(h) RENEWAL OF LICENSES. Every license issued pursuant to Section 11-305 shall terminate at the expiration of one (1) year from the date of issuance, unless sooner suspended or revoked, 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 11-309. A renewal application shall in all other respects be treated as an application for an initial license.

Application for a license renewal must be made not later than thirty (30) days prior to the date of expiration of the license.

(i) 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 eighteen (18) shall be employed in or around an adult entertainment establishment;

(2) No person under the age of eighteen (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 within two (2) years prior to when said person 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 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.

(5) Every adult entertainment establishment shall establish operating business hours and shall post such business hours at the entrance to the adult entertainment establishment premises. No adult entertainment establishment shall be open at any time between the hours of 1:00 a.m. and 6:00 a.m.

(j) 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 persons in an adult hotel.

(k) PRIVATE ROOMS AND CLOSED BOOTHS PROHIBITED.

(1) 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:

a) The booth is designed for a single occupant;

b) The booth has a door or curtains which cannot be locked, which may extend downward not closer than fifteen (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 (6) feet from the floor;

c) Conspicuous signs state, "only one occupant per booth";

d) There are no openings between booths; and

e) It can readily be determined from outside the booth that there is no more than one (1) occupant inside the booth.

(2) No licensee, manager, employee or agent shall permit or allow two (2) or more occupants to occupy any booth which has been designated as a booth designed for a single occupant.

(3) 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.

(l) COMPLIANCE WITH OTHER REGULATIONS REQUIRED. No license 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 as applicable.

(Ord. 713, Sec. 1)

11-306. LICENSE REVOCATION OR SUSPENSION. (a) GROUNDS FOR SUSPENSION. Pursuant to the procedures set forth in Section 11-306(c), the chief of police may suspend for not more than thirty (30) days any adult entertainment establishment license or any escort service license, or escort or escort runner's license (hereafter escort service license and escort or escort runner's license being jointly referred to as "escort service license"), if the chief of police, based on credible and reasonably reliable information and evidence, determines that the licensee, its manager, its employee or agent has violated any provisions of this Article 3.

(b) GROUNDS FOR REVOCATION. Pursuant to the procedures set forth in Section 11-306(c), the chief of police may revoke any adult entertainment establishment license, escort service license, regardless of whether such license has previously been suspended, if the chief of police, based on credible and reasonably reliable information and evidence, determines that any one (1) or more of the following has occurred:

(1) The licensee:

a) knowingly, recklessly or negligently furnished false or misleading information or withheld information on any application or other document submitted to the city for the issuance or renewal of any adult entertainment establishment license or any escort service license; or

b) knowingly, recklessly or negligently caused or suffered any other person to furnish or withhold any such information on the licensee's behalf;

(2) The licensee, its manager or any person otherwise connected or associated with the licensee as a partner, director, officer or stockholder has violated any of the provisions of Section 11-304 or Section 11-305;

(3) One or more adult entertainment establishment or escort service employees have, on three (3) or more occasions within a twelve (12) month period of time,

a) engaged in conduct in violation of any of the provisions of this Article 3, or

b) engaged in activity constituting a common or public nuisance pursuant to state law, including without limitation any activity specified in K.S.A. 22-3901 or amendments thereto;

(4) The licensee, or any person identified pursuant to Section 11-304(i)(j), 11-304(r) or Section 11-305(e), has become ineligible to obtain an adult entertainment establishment license or an escort service license at any time during the term of the license at issue;

(5) The nonpayment of any fee required herein;

(6) For knowingly employing a person who has been, within five (5) years prior to the date of employment, or who during the period of employment is adjudged guilty of, or has participated in a diversion agreement after being charged with, a felony or a morals charge;

(7) For knowingly employing a person who has been, within six (6) months prior to the date of employment, or who during the period of employment is adjudged guilty of, any violation of this Article 3;

(8) The licensee has been convicted, subsequent to the issuance of an adult entertainment establishment license or an escort service license, of a crime involving a morals charge;

(9) The licensee is a corporation which is not, or is no longer, qualified to transact business in the state of Kansas;

(10) The licensee authorizes, approves, or, as a result of the licensee's negligent failure to supervise the licensed premises or the adult entertainment establishment/escort service, allows an adult entertainment establishment/ escort service employee, an adult entertainment establishment/escort service customer, or any other person to:

a) engage in conduct in violation of any of the provisions or requirements of this Article 3 or of the provisions or requirements of the adult entertainment establishment license or escort service license issued pursuant thereto; or

b) commit any morals charge on the premises licensed as an adult entertainment establishment or escort service;

(11) The premises licensed as an adult entertainment establishment or escort service is used as a place where activity constituting a public or common nuisance pursuant to state law, including without limitation any activity specified in K.S.A. 22-3901 or amendments thereto, is carried on or permitted to be carried on.

(c) PROCEDURE. An adult entertainment establishment license or escort service license may be suspended for not more than thirty (30) days or revoked pursuant to the terms and conditions set forth herein.

(1) *Notice*. Upon determining that one (1) or more of the grounds for suspension or revocation under 11-306(a) and Section 11-306(b) may exist, the chief of police shall serve a written notice on the licensee in person or by certified United States mail, postage prepaid, addressed to the licensee's address as set forth in the licensee's application. The written notice shall, at a minimum:

a) state that the chief of police has determined that the adult entertainment establishment license or escort service license may be subject to suspension or revocation pursuant to Section 11-306;

b) identify the specific grounds for the chief of police's determination; and

c) specify the date such suspension or revocation shall be effective unless said determination of suspension or revocation is appealed to the city council. Such date shall be not less than ten (10) days after the notice of suspension or revocation is deposited in the United States mail or personally served upon the licensee.

(2) a) *Appeal*. A licensee may appeal an order of suspension or revocation to the city council by filing a notice of appeal with the city clerk by the date specified on the notice of suspension or revocation. The city council may stay the order of suspension or revocation upon hearing and a showing by the licensee and a finding that a substantial likelihood exists that the licensee will eventually prevail on the merits and that said licensee will suffer irreparable injury unless the stay is granted. If there is no stay by the city council, then the order of suspension or revocation shall not be stayed during the pendency of any such appeal.

b) *Hearing*. The hearing shall be held within ten (10) days of the filing of the notice of appeal, unless the licensee consents to a continuance, and shall be conducted by the city council. At the hearing, the licensee may present and submit evidence and witnesses to refute the grounds cited by the chief of police for suspending or revoking the license and the city and any other persons may submit evidence to sustain such grounds. The administrative record compiled on the adult entertainment establishment or escort service pursuant to Section 11-307 shall be made part of the hearing record. Within three (3) business days after

the close of the hearing, the city council shall, having considered the record made at the hearing, render a decision in writing, setting forth the reasons for the decision. Such written decision shall be served upon the licensee and the chief of police in person or by certified United States mail, postage prepaid, addressed to the licensee's address as set forth in the licensee's application and to the chief of police at the city building. The action taken by the city council shall be final and shall be subject to immediate and expedited judicial review pursuant to K.S.A. 60-2101(d). It is the intent of the city that such review proceed on a priority basis and a hearing thereon be set as soon as practicable and without delay.

(3) *Surrender of license*. Upon the suspension or revocation of an adult entertainment establishment license or any escort service license, the chief of police shall take custody of the suspended or revoked license. In case of the revocation of a license of any licensee, no new license shall be issued to such person or to any person acting for or on his or her behalf, for a period of two (2) years after the revocation becomes effective.
(Ord. 713, Sec. 1)

11-307. ADMINISTRATIVE RECORD. The city clerk shall cause to be kept in the office of the city clerk an accurate record of every adult entertainment establishment license, escort service license and escort/escort service runner license and application received and acted on, together with all relevant information and material pertaining to such application and any license issued pursuant to this Article 3. The city clerk shall further maintain any information it receives from any reliable sources relating to any adult entertainment establishment, escort service and escort/escort service runner.
(Ord. 713, Sec. 1)

11-308. INSPECTIONS BY THE CITY. (a) AUTHORITY. The city police department and other city representatives and law enforcement departments with jurisdiction shall periodically inspect all adult entertainment establishments and escort services as shall be necessary to determine compliance with the provisions of this Article 3 and all other applicable law.

This provision does not apply to rooms occupied by customers of an adult hotel during periods of such occupancy.

(b) LICENSEE COOPERATION. A licensee, manager or any adult establishment/escort service employee shall grant immediate entry to representatives of the city police department and other City representatives to inspect the premises licensed as an adult entertainment establishment or escort service for the purpose of determining compliance with the provisions of this Article 3 and all other applicable laws or regulations at any time during which the premises is occupied or the adult entertainment establishment or escort service is open for business.

(c) INTERFERENCE OR REFUSAL ILLEGAL. It shall be unlawful for the licensee, manager, any adult entertainment establishment/escort service employee, or any other person to prohibit, delay, interfere with, or refuse to allow, any lawful inspection conducted by the city pursuant to this Article 3 or any other authority.

(d) REFUSAL OF IMMEDIATE ENTRY ILLEGAL. It shall be unlawful for the licensee, manager, any adult entertainment establishment/escort service employee, or any other person to refuse immediate entry to a representative of the

city police department and other city representatives at any time during which the premises is occupied or the adult entertainment establishment or escort service is open for business.

(e) REVOCATION. Any such prohibition, delay, interference, or refusal shall be grounds for suspension or revocation of the adult entertainment establishment license or escort service license pursuant to Section 11-306.
(Ord. 713, Sec. 1)

11-309. DISTANCE REQUIREMENTS. (a) GENERAL DISTANCE REQUIREMENTS. No adult entertainment establishment or escort service shall be located less than seven hundred fifty feet (750) feet from a church; less than seven hundred fifty feet (750) feet from a school; less than seven hundred fifty feet (750) feet from a public park; less than seven hundred fifty feet (750) feet from a residential dwelling; or less than seven hundred fifty feet (750) feet from any other adult entertainment establishment or escort service, regardless of licensure. This distance is to be measured from the nearest property line of the church, school, public park, residential dwelling, or other adult entertainment establishment/escort service, to the nearest property line of the premises on which the adult establishment or escort service is located or of any parking lot designated to be used by the customers of such an establishment.

(b) EXCEPTIONS.

(1) There shall be no violation of this Section if a church, school, public park, residential dwelling, or other adult entertainment establishment or escort service moves into the seven hundred fifty (750) foot area after an adult entertainment establishment or escort service has been licensed and has commenced operations.

(2) An adult entertainment establishment or escort service may be located within seven hundred fifty (750) feet of a currently occupied residential dwelling provided that any currently occupied residential dwelling within seven hundred fifty (750) feet of the adult entertainment establishment or escort service is separated from the adult entertainment establishment or escort service by a roadway designated as a United States highway.

(3) An adult entertainment establishment or escort service may remain at a location within seven hundred fifty (750) feet of a church, school, public park, residential dwelling, or separate adult entertainment establishment/escort service until October 1, 2009, if the adult entertainment establishment or escort service was located at such premises on or before October 1, 2006, so long as said adult entertainment establishment or escort service applies for an adult entertainment establishment license or escort service license within thirty (30) days of the effective date of this Article 3, an adult establishment license or escort service license is issued to the adult establishment or escort service within sixty (60) days of the effective date of this Article 3, and so long as said adult establishment or escort service is continuously operated as an adult establishment or escort service at said location since October 1, 2006, subject to the exceptions and limitations set forth below.

a) Should an adult entertainment establishment or escort service fail to continuously maintain a valid adult entertainment establishment license or escort service license at any time after the effective date of this Article 3, the exception set forth in Section 11-309(b) shall be inapplicable from and after the date the adult entertainment establishment or escort service becomes unlicensed

and no adult entertainment establishment license or escort service license shall thereafter be issued or renewed pursuant to the exception set forth in Section 11-309(b)(3) to any person for the operation of said adult entertainment establishment or escort service; provided, that an adult entertainment establishment or escort service shall not be considered unlicensed under this Section if the licensee of said adult entertainment establishment or escort service successfully appeals a license revocation or suspension pursuant to the procedure set forth in this Article 3; further provided, that an adult entertainment establishment or escort service shall not be considered unlicensed during the first thirty (30) days after the effective date of this Article 3 nor during the time any license application submitted within thirty (30) days of the effective date of this Article 3 remains pending.

b) An adult entertainment establishment or escort service that has ceased, at any time after October 1, 2006, to be used for such purpose at the location specified in the adult entertainment establishment license or escort service license in effect on October 1, 2006, for a period of ninety (90) days or more shall not be deemed to have been continuously operated as an adult establishment or escort Service for purposes of the exception set forth in Section 11-309(b)(3).

c) The exception set forth in Section 11-309(b)(3) shall be inapplicable to an adult entertainment establishment or escort service should either of the following occur:

i) one or more adult entertainment establishment or escort service employees have, on three (3) or more occasions within a twelve (12) month period of time, engaged in activity constituting a common or public nuisance pursuant to state law, including without limitation any activity specified in K.S.A. 22-3901 or amendments thereto; or

ii) the licensed premises is used as a place where activity constituting a public or common nuisance pursuant to state law, including without limitation any activity specified in K.S.A. 22-3901 or amendments thereto, is carried on or permitted to be carried on.

d) No adult establishment license or escort service license shall be issued or renewed pursuant to the exception set forth in Section 11-309(b) to any person, or for any location or premises not identified in the adult entertainment establishment license or escort service license in effect on October 1, 2006; further, that should an adult entertainment establishment or escort service cease to be used for such purpose at the location specified in the adult establishment license or escort service license in effect on October 1, 2006, for a period of ninety (90) days or more, then in that event, any existing license shall be deemed to expire at twelve noon on the first calendar day of non-use, continuous operation of the adult establishment or escort service shall be deemed to have ceased at twelve noon on the first calendar day of non-use, and no new adult entertainment establishment license or escort service license shall be issued for the establishment except as specifically provided for herein.

Should a license expire pursuant to this provision, the licensee may make application to the city clerk for a refund of the portion of license fee attributed to the remaining period of the license not later than ten (10) business days after the ninetieth day for non-use. No refunds shall be made for a period of time less than thirty (30) days.

e) Periods of time during which such licensed premises 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 ninety (90) day period, provided, that any remodeling or repair shall be commenced within ninety (90) days after the closure of any structure and completed within a reasonable time thereafter. The zoning administrator shall be notified in writing within thirty (30) days of closing such adult entertainment establishment or escort service for remodeling or repair. Such written notice shall state the date of commencement and estimated or actual completion of remodeling or repair. No adult entertainment establishment or escort service shall be re-licensed and shall cease to be used as an adult entertainment establishment or escort service if repair is not commenced within ninety (90) days within a reasonable time thereafter and/or if the zoning administrator is not notified within the thirty (30) days of closing any structure for remodeling or repair.

(4) On or before October 1, 2009, all adult entertainment establishments or escort services where the licensed premises are located within seven hundred fifty (750) feet of a church, school, public park, residential dwelling, or separate adult entertainment establishment or escort service, shall cease operation unless the adult entertainment establishment or escort service is within the exceptions set forth in Section 11-309(b).

(5) On or after October 1, 2009, the exceptions set out in Section 11-309(b)(3) shall be null and void.
(Ord. 713, Sec. 1)

11-310. VIOLATION – 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 One Thousand Dollars ($1,000.00) or by imprisonment for not more than six (6) months, or by both such fine and imprisonment. (Ord. 713, Sec. 1)

11-311. NUISANCE DECLARED. Any violation of the provisions of this Article 3 shall be and the same is declared to be an unlawful and public nuisance. The city may in addition to or in lieu of any other remedies set forth herein, commence an action to enjoin, remove or abate such nuisance in the manner provided by law and shall take such other steps and apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such public nuisance and restrain and enjoin any person from establishing, operating or maintaining an adult establishment or escort service contrary to the provisions of this Article 3. (Ord. 713, Sec. 1)

11-312. SEVERABILITY. Should any court declare any section, clause or provision of this Article 3 to be unconstitutional, such decision shall affect only such section, clause or provision so declared unconstitutional and shall not affect any other remaining section, clause or provision of this Article 3. (Ord. 713, Sec. 1)

ARTICLE 4.
REGULATION OF HOTELS AND ROOMING HOUSES

11-401. DEFINITIONS. For purposes of this section, the following terms shall have the following meanings:

(1) "Sleeping Accommodations" means a private room or suite of rooms furnished for sleep, occupancy of which is provided to a transient or residential guest in exchange for valuable consideration.

(2) "Transient Guest" means any person who occupies a Sleeping Accommodation for a period of less than one week.

(3) "Residential Guest" means any person who occupies a Sleeping Accommodation for a period lasting one week or longer.

(4) "Lodging" means any building, other structure, or group of structures in which four or more rooms are kept used, maintained, advertised, or held out to the public as having Sleeping Accommodations. Such facilities may be commonly called a hotel, motel, inn, rooming house, boarding house, camp, etc., but such description is neither definitive nor necessary. (Ord. 821, Sec. 1)

11-402. REGISTER OF TRANSIENT GUESTS TO BE KEPT; INFORMATION TO BE SHOWN. Every proprietor or manager of a hotel, rooming house, apartment house or any other place within the corporate limits of the City which caters to and permits Transient Guests for a consideration to occupy a room under his supervision shall maintain a register and require each Transient Guest to sign his name on the register, together with his home address. In the case of an organized group, for which all members' charges will be paid by the group's leader or organizer, the proprietor or manager may accept a list of the group members' names and home addresses in lieu of a separate registration for each guest. Any such list shall be considered a part of the register subject to inspection under Section 11-407. The proprietor or manager shall at the time of registering assign the guest to a room and enter the number of the room to which the guest is assigned on the register opposite the guest's name, together with the date of registration. When registration by group list is permitted, the assigned room number will be noted next to each party's name. The group leader shall confirm the room assignments on the day of registration by subscribing his or her signature, date and time of completion. When the guest shall check out that fact shall be noted on the register by the proprietor or the manager, together with the date of leaving. (Ord. 821, Sec. 1)

11-403. REGISTRATION OF PERMANENT GUESTS. Where a register is maintained for Transient Guests under the provisions of Section 11-402, and the place also caters to permanent guests, the permanent guests shall be required to register in the same manner as the Transient Guests. (Ord. 821, Sec. 1)

11-404. REGISTRATION OF EMPLOYEES RESIDING ON PREMISES. Any employee of a hotel, rooming house, apartment house, or any other place within the corporate limits of the City which caters to and permits Transient Guests to occupy a room, who resides or lives upon the premises shall be required to register with the proprietor or manager of said hotel, rooming house, or apartment house, and a suitable register will be maintained by said proprietor or manager and shall at all times be kept open to the inspection of any member of the Police Department of the City of Maize, Kansas upon request. (Ord. 821, Sec. 1)

11-405. FRAUD AND CHEATING IN OBTAINING ACCOMMODATIONS. Any person who shall obtain food, lodging, or other accommodations with a value of One Thousand Dollars ($1,000.00) or less, at any inn, restaurant, hotel, boarding house,

apartment house, dwelling unit or rooming house by means of any trick, deception or false representation, statement or pretense, with intent to defraud the owner or keeper thereof, and shall fail or refuse to pay therefor, shall be deemed guilty of a misdemeanor. (Ord. 821, Sec. 1)

11-406. PRIMA FACIE EVIDENCE OF INTENT TO DEFRAUD AN OWNER OR INNKEEPER. The following shall be *prima facie* evidence of the intent to defraud an owner or an innkeeper as provided in Section 11-405:

(a) Obtaining lodging, food or other accommodations by false pretense or by false or fictitious show or pretense of any baggage or other property;

(b) Paying for such food, lodging or other accommodation by a check or other negotiable paper on which payment was/had been refused;

(c) Leaving the inn, restaurant, hotel, boarding house, apartment house, dwelling unit or rooming house without paying or offering to pay for such food, lodging or other accommodation;

(d) Surreptitiously removing or attempting to remove baggage or other property; or

(e) Registering under a fictitious name. (Ord. 821, Sec. 1)

11-407. REGISTER OPEN TO INSPECTION BY POLICE. The register required to be kept by Section 11-402 and all other registers maintained at any hotel, rooming house or apartment house shall at all times be kept open to the inspection of any member of the police department. (Ord. 821, Sec. 1)

11-408. SMOKING ON BEDS. It shall be unlawful for any person while in or on a bed in any hotel or public rooming house in the City to smoke a lighted cigarette, cigar or pipe. (Ord. 821, Sec. 1)

11-409. BURNING OF FURNISHINGS WITH LIGHTED CIGARETTES, ETC. It shall be unlawful for any person while in a hotel room or in a room of a public rooming house in the City to set fire to, burn, or cause to be burned, any bedding, furniture, curtains, draperies or household furnishings by means of any lighted cigarette, cigar or pipe, or by matches or other combustible material in lighting or attempting to light any cigarette, cigar or pipe. (Ord. 821, Sec. 1)

11-410. POSTING NOTICE OF SECTIONS 11-408, 11-409, 11-410 AND 11-412. It shall be the duty of the owner, manager or person in charge of any hotel or public rooming house to post a notice of Sections 11-408, 11-409, 11-410 and 11-412, which shall set forth in substance the terms and penalty contained in such sections, in each room of the hotel or pubic rooming house which is rented to the public. (Ord. 821, Sec. 1)

11-411. VIOLATION; PENALTY. Any person who violates any provision of this Article 4 is guilty of a misdemeanor which shall constitute a Class C violation under Section 11-223 herein, provided however, a violation of Section 11-405 shall constitute a Class A violation under Section 11-405 herein. (Ord. 821, Sec. 1)

11-412. SEVERABILITY. Should any court declare any section, clause or provision of this Section 4 to be unconstitutional, such decision shall affect only such section,

clause or provision so declared unconstitutional and shall not affect any other remaining section, clause or provision of this Section 4. (Ord. 821, Sec. 1)

CHAPTER XII. PUBLIC PROPERTY

Article 1. City Parks

ARTICLE 1. CITY PARKS

12-101. DEFINITION. The city park referred to in this article generally located at the southwest corner of Central and Khedive Streets in the city is defined to be all property, facilities, grounds, buildings, utilities, or parts thereof under the control or jurisdiction of the city within the following parcels: PK-MA-00099, PK-MA-00127B, PK-MA-000127C, and the 60 feet of vacated right-of-way formerly platted as Jones Street. Within this article, the terms park or park area refer to the Maize City Park. (Ord. 367, Sec. 1)

12-102. CITY LAWS EXTENDED TO PARK. The laws of the city shall extend to and cover all city parks. (Code 2003)

12-103. POLICE JURISDICTION OVER PARKS. The city shall have police regulations governing any public parks belonging to the city and the chief of police and law enforcement officers of the city shall have full power to enforce city laws governing city parks and shall maintain order therein. (Code 2003)

12-104. DAMAGING PARK PROPERTY. It shall be unlawful for any person, except duly authorized city employees, to willfully or wantonly remove, injure, tarnish, deface or destroy any building, walk, bench, tree or improvement or property of any kind belonging to any park owned by the city. (Code 2003)

12-105. DANGEROUS WEAPONS NOT ALLOWED. (a) Except as provided in subsection (b), it shall be unlawful for any person to carry or have in his or her possession any firearm or dangerous weapon or to shoot or discharge the same within the limits of any city parks.

(b) The provisions of subsection (a) above shall not apply to duly authorized law enforcement officers in the performance of official duty.
(Code 2003)

12-106. MOTOR OR ENGINE DRIVEN VEHICLES. Motor or engine driven vehicles, including but not limited to go-carts, motorcycles, motor scooters, mini-bikes, motored bicycles, and snowmobiles are not permitted in the park, except that licensed vehicles or vehicles authorized by the chief of police are permitted on roadways or authorized parking areas. (Ord. 367, Sec. 8)

12-107. HUNTING. It shall be unlawful for any person to pursue, catch, trap, maim, kill, shoot or take any wildlife, either bird or animal, in any manner at any time while in any city park. (Code 2003)

12-108. FIRES. (a) It shall be unlawful for any person to build or kindle any fire in any city park except in the ovens, stoves, or grills provided for that purpose by the city, and such fire must be extinguished by the person, persons or parties starting such fire, immediately after use thereof.

(b) Charcoal briquets, wood or other materials used for fire or cooking purposes shall be extinguished before being deposited in trash containers. No hot or burning coals or materials of any kind shall be dumped or deposited on park property.
(Ord. 367, Sec. 4; Code 2003)

12-109. CAMPING PROHIBITED. Overnight camping is hereby prohibited in city parks except where posted. (Code 2003)

12-110. SANITATION. All waste material, paper, trash, rubbish, tin cans, bottles, containers, garbage and refuse of any kind whatsoever shall be deposited in disposal containers provided for such purposes. No such waste or contaminating material shall be discarded otherwise. No sticks, stones, trash or other objects shall be thrown or discarded in or on any park lands, fountains, pools, drinking fountains, sanitary facilities, or other improvements. (Code 2003)

12-111. FEE SCHEDULE. A schedule of fees and charges for the public use of facilities under the jurisdiction and control of the city are designed and intended to defray costs of operating and maintaining the park. Such fees do not constitute and are not intended to constitute a revenue producing measure. A fee schedule may be adopted from time to time by the city council and shall become applicable from the date of adoption or as otherwise indicated. (Ord. 367, Sec. 2)

12-112. PICNICKING. Picnics shall be allowed in areas of the park were picnic tables are provided. Persons are not prohibited from spreading a blanket or table cloth on the ground for the purpose of having a picnic in areas designated for picnic purposes. (Ord. 367, Sec. 3)

12-113. BICYCLES. It is unlawful for any person in a park to:

(a) Ride a bicycle on other than a vehicular road, path, or sidewalk. A bicyclist shall be permitted to wheel or push a bicycle by hand in or over any grassy area.

(b) Leave a bicycle in a place other than a bicycle rack when such is provided and there is a space available.
(Ord. 367, Sec. 7)

12-114. HORSEBACK RIDING AND LIVESTOCK. Horseback riding or leading horses is not permitted in or through the park, with the exception of organized horse shows or exhibitions explicitly approved and scheduled by the city council. No livestock are permitted in the park except as an organized activity scheduled and approved by the city council. (Ord. 367, Sec. 9)

12-115. TENNIS COURTS. It is unlawful for any person to utilize any scooters, bicycles or similar devices on the tennis courts. The city council may from time to time adopt special rules governing use of the tennis courts. (Ord. 385, Sec. 1)

12-116. TRASH, SANITATION, RUBBISH AND RELATED MATTERS. It is unlawful for any person in the park to have brought in or dump, deposit or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage, or refuse, or other trash. No such refuse or trash shall be placed in or contiguous to the park or left anywhere on the grounds thereof, but shall be placed in the proper receptacles where these are provided; where receptacles are not provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere. (Ord. 367, Sec. 12)

12-117. PARK HOURS. The city council or its designee shall establish the hours during which the park and its facilities shall be closed. In addition, the park may be closed to the public when construction or maintenance is occurring on such property which requires closing. In addition, the police officers shall have the authority to close the park to the public when conditions exist which endanger public safety or welfare. (Ord. 385, Sec. 3)

12-118. INJURING PROPERTY OR REMOVING EQUIPMENT. It is unlawful for any unauthorized person to mark, deface, disfigure, injure, tamper with or displace or remove any buildings, bridges, tables, benches, railings, paving or paving materials, water lines or other public utilities or parts thereof, whether temporary or permanent, structures equipment or facilities. (Ord. 367, Sec. 14)

12-119. PRESERVATION OF NATURAL STATE. It shall be unlawful for any person, except duly authorized city employees, to take, injure, or disturb any live or dead tree, plant, shrub, or flower, or otherwise interfere with the natural state of city parks. (Code 2003)

12-120. GENERAL REGULATIONS. The city may post such rules and regulations, as are approved by the governing body, pertaining to the use of the city parks in a conspicuous place in each city park. Violations of these posted rules shall constitute a violation of this code. (Code 2003)

12-121. PENALTY CLAUSE. Any person convicted of a violation of any provision of this article shall be deemed guilty of a misdemeanor and shall be subject to a jail confinement not to exceed 30 days and/or pay a fine which shall be fixed by the court not to exceed $500. Upon failure to pay such fine and costs such person shall be confined in jail until such fine is paid. (Ord. 367, Sec. 15)

CHAPTER XII(A). SIGNS

ARTICLE 1. GENERAL PROVISIONS

12A-101. GENERAL PURPOSE. It is the intent and purpose of this chapter to:

(a) recognize that signs are a necessary means of useful communication for the convenience of the public;

(b) maximize the value of commercial signage as a means of locating and identifying commercial establishments providing goods and services;

(c) protect, preserve and enhance the aesthetic character of the city of Maize, and thereby encourage the continued development within the city;

(d) ensure that signage does not obscure the architectural and natural features of the city, and is of a scale and proportion compatible with the aesthetic character of the city;

(e) protect the public from hazardous conditions that can result from signs which are structurally unsafe, obscure the vision of motorists, create dangers to pedestrian traffic, or compete or conflict with necessary traffic signals and warning signs.

(f) promote an overall visual effect which has a minimum of clutter.

(g) eliminate distracting lighting and excessive glare by reasonably limiting the illumination of signs to subdued, adequately shielded or concealed light sources.

(h) assure that signs are promptly removed once the business, service or other activity advertised is no longer provided.
(Ord. 890)

12A-102. AMENDMENTS. Any amendments to the Sign Code Ordinance shall be forwarded to the Maize City Planning Commission for their review and comment. (Ord. 890)

12A-103. DEFINITIONS. As used in this Chapter 12A, the following words shall have the following meanings. Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used.

(a) *Abandoned sign.* Any sign remaining in place which for a period of one hundred eighty (180) days or more which no longer advertises or identifies an ongoing business, product, service, idea or commercial activity located on the site.

(b) *Architectural feature* means a prominent or characteristic part of a building, including but not limited to windows, columns, marquees or fascia.

(c) *Art* means things that have form and beauty, including paintings, sculptures or drawings.

(d) *Attention-getting device* means any flag; streamer; spinner; pennant; light; balloon; continuous string of pennants, flags, inflatables, wind flags, flying signs, blimps or fringe; or similar device or ornamentation used primarily for the purpose of attracting attention for promotion or advertising a business or commercial activity which is visible by the general public from any public right-of-way.

(e) *Awning* means a roof-like cover extending over or in front of an opening such as a window or door, intended to provide shelter from the elements. An awning may be made of any material compatible with the design of the building.

(f) *Backlit sign* means an indirect source of light which illuminates a sign by shining through a translucent surface of a sign, including plastic signs, lit from an internal light source.

(g) *Banner* means any advertisement device affixed to building or fence belonging to business which is located outdoors and which is primarily intended to announce or promote a civic event, grand opening, sale or which serves as a decoration for special holidays.

(h) *Billboard* means a permanent structure sign which meets any one or more of the following criteria: a) it is used for the display of off-premises commercial messages; b) it is used for general advertising for hire; c) it functions economically and operationally independent from the principal use of the land on which it is located, in contract to functioning as an accessory or auxiliary to a principal use which is not a sign.

(i) *Building frontage* means the width of a building facing a street, public access way or city right-of-way. In the case of a corner lot or lot bounded on more than two (2) sides by public rights-of-way, the building frontage may be either or any of the street frontages, but not more than one (1) frontage. Where more than one (1) side of a building faces a street, the side classified as the building frontage may be chosen by the property owner.

EXCEPTIONS: When a place of business has an entrance on either side of the building for the public to enter (business is a block long or more) then both could be considered having frontage and therefore have signs allowed per frontage and zoning.

(j) *Building sign* means an on-site sign attached to or painted onto a wall, awning, canopy, building or structure or that is attached to, but not painted on a roof structure or roof surface, the height of which shall not exceed the height of the roof or wall parapet, or of any of the following:

(1) the highest point of the coping of a flat roof;

(2) the deck line of a mansard roof;

(3) the average height between the eaves and ridge line of a gable, hip or gambrel roof or three (3) feet above the finished roof deck if the average height of a gable, hip or gambrel roof is less than three (3) feet above the bottom or lowest edge of the roofline; EXCEPT that a building or structure that was constructed prior to this code being adopted, that does not have an area at least three (3) feet tall and twenty (20) feet wide above an unglazed portion of the building elevation, the bottom of which is at least seven (7) feet above grade, may

have a building sign which shall not exceed four feet six inches (4'6") above the roof or parapet.

(4) does not include window signs.

(k) *Bus bench sign* means a sign drawn, painted, printed or otherwise affixed to a bench, such as at a bus stop.

(l) *Bus shelter sign* means advertising signs mounted to bus shelters in the right-of-way or on private properties.

(m) *Calendar quarter* means three-month periods of time during the year. January, February and March consist of the first calendar quarter; April, May and June, the second; July, August and September, the third; and October, November and December, the fourth.

(n) *Changeable copy sign (automatic)* means a sign on which the copy changes automatically, such as electrical or electronic time and temperature units; a sign whose informational content can be changed or altered by manual or electric, electro-mechanical or electronic means. Changeable signs include the following types:

(1) manually activated: signs whose alphabetic, pictographic, or symbolic informational content can be changed or altered by manual means.

(2) electrically activated: signs whose alphabetic, pictographic, or symbolic informational content can be changed or altered on a fixed display surface composed of electrically illuminated or mechanically driven changeable segments. Includes the following two types:

a. fixed message electronic signs – signs whose basic informational content has been pre-programmed to include only certain types of information projections, such as time, temperature, predictable traffic conditions or other events subject to prior programming.

b. computer-controlled variable message electronic signs – signs whose information content can be changed or altered by means of computer-driven electronic impulses; a variable message sign that utilizes computer-generated messages or some other electronic means of changing copy or display. These signs include displays using incandescent lamps, LEDs, LCDs, or a flipper matrix, and also enable changes to be made to messages from a location other than at the sign.

(o) *Civic event* means any type of race, parade, show, competition, entertainment or community activity to which the general public is invited, either expressly or by implication.

(p) *Commercial balloon sign* means an on-site, temporary sign that is inflated and exceeds five (5) square feet in area, designed to advertise a specific product or service sold, produced or conducted on the premises on which advertising copy, logos, symbols or emblems may or may not be printed, painted or attached. Commercial balloons may be tethered or mounted to a structure or on the ground.

(q) *Community information board* means a sign used to publicize community-wide events.

(r) *Copy* means any graphic, letter, numeral, symbol, insignia, text, sample, model, device or combination thereof which is primarily intended to advertise, identify or notify.

(s) *Construction sign* means a temporary sign identifying an architect, contractor, financier, subcontractor and/or material supplier participating in construction on the property on which the sign is located.

(t) *Corner lot* means a lot bounded on two (2) sides by streets which intersect with each other.

(u) *Directional sign* means a temporary, non-illuminated sign used to provide assistance in locating a civic event.

(v) *Directory sign* means a sign that serves as a common or collective identification of two (2) or more uses on the same property and which may contain a directory to the uses as an integral part thereof, or may serve as a general identification for such developments as shopping centers, industrial parks and similar uses.

(w) *Electronic message sign* means a variable message sign that utilizes computer-generated messages or some other electronic means of changing copy. These signs include displays using incandescent lamps, LEDs, LCDs or a flipper matrix, and also enable changes to be made to messages from locations other than at the sign. Electronic message signs shall be classified as animated, flashing or moving signs when the rate of copy and/or graphic changes is more than one change per second.

(x) *Flashing sign* means a sign with intermittent or flashing light source. Generally, the sign's message, copy or flashing pattern is constantly repeated.

(y) *Freestanding sign* means a sign that is supported by one (1) or more columns, upright poles or braces extended from the ground or from an object on the ground, or that is erected on the ground where no part of the sign is attached to any part of a building, structure or other sign; the term includes *pole sign*, *monument sign* and *ground sign*.

(z) *Garage sale sign* means the occasional non-business public sale of secondhand household and other goods incidental to household uses by a person or persons from a residential zoning district.

(aa) *Grand opening sign* means a temporary sign intended to advertise the opening or grand opening of the business located on the parcel. It could be a banner or a portable sign.

(bb) *Ground sign* means a sign placed upon or supported by the ground independently of any building or structure on the property.

(cc) *Height of sign* means the vertical distance measured from the highest point of the sign to the natural surface grade beneath the sign. If the sign is a monument sign, the height shall be calculated using the highest point of the sign, regardless of slope.

(dd) *Ideological sign* means a sign which does not propose a commercial transaction, but instead involves only the expression of ideas or beliefs.

(ee) *Information sign* means a sign used to indicate or provide information or direction with respect to permitted uses on the property, including but not limited to signs indicating the hours of operation and such signs as *no smoking*, *open*, *closed*, *restrooms*, *no solicitors*, *deliveries in rear*, current credit card signs, trade association emblems and the like.

(ff) *Institutional use* means a building, group of buildings or place of confinement or use of an established organization or foundation dedicated to public service, education or culture, or any church or school.

(gg) *Kiosk* means a freestanding structure which may have two (2) or more faces and upon which temporary information and/or posters, notices and announcements are posted.

(hh) *Lighting, indirect* means a light source separated from the sign surface which illuminates the sign surface by means of spotlights or similar lighting fixtures.

(ii) *Lot* means a portion or parcel of land, including a portion of a platted subdivision, occupied or intended to be occupied by a building or use and its accessories, that is an integral unit of land held under unified ownership in fee or co-tenancy, or under legal control tantamount to such ownership.

(jj) *Menu display box* means a freestanding or wall sign enclosed in glass for the express purpose of displaying menus. For purposes of this article, it shall also mean menus displayed flat against the interior of a window up to four (4) square feet in size.

(kk) *Monument sign* means a freestanding sign that includes an architecturally designed base or column which is constructed of stone, brick, timbers or other similar material, and is designed to be architecturally compatible with the design of the project.

(ll) *Moving sign* means a sign which moves or simulates motion.

(mm) *Neon sign* means any sign that is illuminated by tubes filled with neon and related inert gases, including any display of neon lighting tubes which is in view of the general public from a public right-of-way or from any public area, regardless of the shape, size, design or configuration. Neon signs shall not exceed thirty milliamps (30 mA) and the proof is on the sign contractor.

(nn) *Off-site sign* means a sign which does not advertise a business, merchandise, product, service, entertainment, activity, organization, event, or place which is sold, produced, manufactured, furnished or available on the property where the sign is located.

(oo) *On-site sign* means a sign advertising an establishment, business, person, activity, goods, product or service located on the premises where the sign is installed and maintained.

(pp) *Outline lighting* means any arrangement or display of incandescent bulbs or lighting tubes used to outline or call attention to the features of a building, including the building's frame, shape, roofline or window dimensions. Outline lighting includes both temporary and permanent arrangements of bulbs or lighting tubing, whether located inside or outside of a building if such bulbs or tubing are visible to the public from a public right-of-way or from an outdoor public area.

(qq) *Pennants* or *streamers* means pieces of fabric or flexible material, often multicolored, hung either alone or in a series in order to attract attention to a particular business or event.

(rr) *Plane geometric figure* means simple circles, rectangles or triangles.

(ss) *Planning administrator* means the Planning Administrator or his/her designee.

(tt) *Pole sign* means a detached ground sign whose sign face or cabinet is more than two (2) feet above ground level and is supported by poles, pylons or posts.

(uu) *Portable sign* means a temporary on-site sign designed in such a manner as to be readily movable and not permanently attached to the property, such as A-frames, trailer signs, signs placed on vehicles, beacon lights and other similar signs.

(vv) *Projecting (hanging) sign* means a sign other than a wall sign, which projects eighteen (18) inches or more from and is supported by a wall of a building or structure, or any sign supported by handrails or a deck.

(ww) *Public place* means any outdoor place to which the public or a substantial number of the public has legal access, including but not limited to highways, transportation facilities, parks, playgrounds, recreation facilities, parks, playgrounds, recreation facilities and the outdoor public common areas and accessways owned by the city.

(xx) *Real estate development sign* means a sign used to identify a proposed real estate development and/or the owners, architects, contractors, real estate agents and lenders involved with the development which is either not under construction, but for which a valid city permit has been issued, or is under construction. Sales and lease information may be included on such sign.

(yy) *Reflective surface* means any material or device which has the effect of intensifying reflected light, including but not limited to Scotch lite, Day-Glo, glass beads and luminous paint.

(zz) *Residential complex sign* means all hotel, motel, condominium or multi-family project signs.

(aaa) *Residential nameplate* means a type of sign allowed for the sole purpose of identifying the inhabitants of a residential structure, the house name or the address of the residence.

(bbb) *Roof sign* means a sign painted on the roof of a building, or supported by poles, uprights or braces extending from the roof of a building, or projecting above the roof of a building, but does not include a sign projecting from or attached to a wall.

(ccc) *Rotating sign* means a sign that turns or spins on or around a pole or other similar axis point.

(ddd) *Sandwich board sign* means a portable A-frame-type sign with not more than two (2) advertising faces, each face measuring not more than thirty (30) inches in width, thirty-six (36) inches in height, erected on the ground, hinged at the apex and folded into a sandwich position when transported or stored; also commonly referred to as an *A-board sign*.

(eee) *Separate frontage* means a second building frontage, parallel and adjacent to a public right-of-way and on the opposite side of a building's primary frontage, which includes public entrances.

(fff) *Sign* means any medium, including its structure and component parts, including any sign illumination device which is used or intended to be used to attract attention to the subject matter for the purpose of advertising or proposing a commercial transaction and which is visible by the general public from any public right-of-way. *Visible* means capable of being seen, whether or not capable of being read, without visual aid by a person of normal acuity. *Sign area* or *surface area* means the surface area of a sign, as determined by the city, including its facing, copy, insignia, background and borders. The sign area of a wall sign which is composed of individual letters attached to a building, or placed on a raceway attached to a building, shall be the area obtained by measuring the perimeter of each word utilizing a series of straight line geometric figures which enclose the extreme limits of the word. The combined area of all individual words shall be considered the total sign area.

(ggg) *Sign owner* means the permittee with respect to any sign for which a sign permit has been issued; or, with respect to a sign for which no sign permit is required or for which no sign permit has been obtained, sign owner means the person entitled to possession of such sign, the owner, occupant and/or agent of the property where the sign is located.

(hhh) *Sign structure* means any supports, uprights, braces or framework of a sign.

(iii) *Silhouette lighting* means an illuminated reverse channel letter so light from the letter is directed against the surface behind the letter producing a halo lighting effect around the letter; also referred to as *halo lighting* or *backlit lighting*. The sign letters are opaque and appear as a silhouette against the lighted surface.

(jjj) *Statuary sign* means any sign which is a modeled or sculptured likeness of a living creature or inanimate object.

(kkk) *Street* means the entire width of every dedicated public way owned or controlled by the city, including the traveled portion thereof known as the roadway, the portion used for sidewalks and the portion between the property line and roadway known as the parkway.

(lll) *Structure* means anything which is built or constructed with a fixed location, but does not include utility poles, lines, cable or other transmission or distribution facilities of public utilities.

(mmm) *Subdivision entrance sign* means a sign used to identify the name and entryway to a subdivision.

(nnn) *Temporary sign* means a sign which is intended for a definite and limited period of display and which is not permanently affixed to a structure or sign structure. Such limited time period shall be defined as four (4) times per year, a maximum of fifteen (15) days per occurrence.

(ooo) *Temporary window sign* means a window sign which advertises special commercial events or sales. Signs displaying solely product names, product logos or business names, or promoting the ongoing nature of a business and the products sold, shall not be considered as temporary window signs.

(ppp) *Walking sign* means any sign, including sandwich board signs, or lettering on a costume, which is carried or worn by any person and which is visible from a public right-of-way, adjacent property or a public area.

(qqq) *Wall sign* is a type of building sign that is attached to, painted on or erected against the wall of a building or structure, with the exposed face of the sign in a plane parallel to the plane of said wall.

(rrr) *Window* means any single window pane, or a series of adjacent window panes separated by a mullion of twelve (12) inches or less. Adjacent window panes set at different angles shall constitute separate windows regardless of the width of their mullion separation.

(sss) *Window sign* means a sign that is painted on, applied to or attached to a window, including neon signs, but excludes merchandise included in a window display. *Window signs* shall include signs located in the interior of a structure placed so that they serve to effectively display advertising for passersby on any public areas or public rights-of-way, and are located within thirty-six (36) inches of the interior of a window surface, excluding informational material such as hours of operation and emergency contact telephone numbers.

(Ord. 890)

ARTICLE 2. GENERAL SIGN INFORMATION

12A-201. PERMIT REQUIRED.

(a) Except as provided in this article, no person shall erect, construct, enlarge, alter, repair, display, maintain or use a sign, whether temporary or permanent, until a permit for the same has been issued by the Planning Administrator and/or designee. Each sign shall require a separate permit fee.

(b) All persons engaged in the business of hanging or installing signs, including commercial balloon signs, which involves in whole or part the placement, location, erection, construction, reconstruction, remodeling, relocation, alteration, hanging, affixing or creation by painting of such signs shall be licensed with the City of Wichita, Kansas, or Sedgwick County, Kansas.

(c) Temporary portable signs require a decal showing the permit number and expiration date to be affixed to each end of the sign.

(Ord. 890)

12A-202. REVOCATION OF PERMITS. The Planning Administrator may revoke any permit under the provisions of this chapter or stop the work or order the removal of any sign for any of the following reasons:

(a) Whenever there is a violation of any of the provisions of this chapter or any other ordinance relating to signs;

(b) Whenever the continuance of any work becomes dangerous to life or property;

(c) Whenever there is any violation of any condition on which the permit was based;

(d) Whenever, in the opinion of the Planning Administrator and/or designee, the person having charge of such work is incompetent;

(e) Whenever any false statement or misrepresentation has been made on the application on which the issuance of the permit was based;

(f) Whenever the owner has failed to maintain a sign in conformance with this chapter;

(g) Whenever the owner has changed the zoning lot to make a sign nonconforming.

(Ord. 890)

12A-203. SIGN PERMIT APPLICATIONS AND FEES.

(a) APPLICATION FORM. An application for a sign permit shall be made in writing on forms furnished by the city. The application shall contain the following information, and the application and all exhibits shall become the property of the city:

(1) Two (2) scale drawings showing details of construction, showing the size, shape, design, colors, materials, lighting and letter styles of all proposed freestanding and wall signs.

(2) A plot plan of the site indicating the sign location of any freestanding sign.

(3) An architectural elevation or a photo depicting the proposed location of the sign on a building if a wall or building sign.

(4) Any other maps, drawings or materials needed to adequately describe the sign proposal.

(b) PERMIT FEE. The fee as set forth in this section shall be paid to the city before any such permit is issued. Every sign, except those signs exempt from these regulations by Section 12A-205 of this code, requires a permit. The fees set forth in this section may hereafter be modified by such fee schedule as may be established by resolution of the governing body. Such new or modified fees shall become effective upon publication.

(1) Permanent sign permit fee.

a. For each permanent sign that is placed, located, erected, constructed, reconstructed, remodeled, relocated, altered, hung, affixed or created by painting, the sign permit fee shall be fifty dollars ($50) plus ten dollars ($10) per each ten (10) square feet in gross surface area or fraction thereof.

b. For each existing permanent sign that is altered to increase the area or height of the sign, a sign permit fee of fifty dollars ($50) plus ten dollars ($10) per ten (10) square feet of increase in gross surface area of the sign or fraction thereof.

c. For each existing permanent on-site sign of which the copy is altered or changed by painting or replacing sign faces, where no increase in height or area occurs and does not involve structural changes, a sign permit fee of fifty dollars ($50) shall be paid. This fee shall not apply when a change is made to add an additional face to a single face sign. Further, no permit is required for mere repainting or replacement of a damaged sign face when there is no substantive change or alteration to existing copy and no increase in the height or area of the sign.

d. For each sign that is placed, located, erected, constructed, reconstructed, remodeled, relocated, altered, hung, affixed or created by painting without first obtaining a permanent sign permit, the fee shall be twice the amount specified above.

e. If the job is cancelled in writing by the customer, the city shall refund eighty percent (80%) to the sign company for the permit; otherwise, the fee is non-refundable.

(2) Temporary sign permit fee.

a. Portable signs shall have a yearly decal from January 1 through December 31. The fee for such permit decal is one hundred dollars ($100) and shall comply with size and location for each sign in accordance with Section 12A-410 of this code. Such permit shall allow display of a temporary sign for a maximum of four (4) times per year, fifteen (15) days per occurrence.

b. See Article 4 of this chapter for all other temporary signs.

(c) SIGN PERMIT REVIEW PROCEDURES. Applications for sign permits shall be processed in accordance with the following procedures:

(1) Submission Requirements. The applicant shall submit the application, all required application materials and the fee to the Planning Administrator for the City of Maize to review.

(2) Review Criteria. The Planning Administrator shall have ten (10) business days after submittal of the complete application to make a decision at which time he or she may:

a. approve the application;

b. deny the application based on the laws established within this Chapter 12A;

c. continue or table the application for up to ten (10) additional business days if additional information or study is necessary to make a decision.

(3) Any such temporary portable sign for which said permit is obtained shall bear a decal showing the permit number and expiration date of the permit.

(4) No decision of the Planning Administrator shall be in conflict with the provisions of this Chapter 12A.

(d) The Board of Zoning Appeals is hereby granted authority to authorize in specific cases a variance from the specific terms of this chapter which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship, and provided that the spirit of this chapter shall be observed, public safety and welfare secured, and substantial justice done. Variances under this chapter shall be granted under the same procedures and conditions as set forth in Article V, Section V-G of the City of Maize Zoning Code.

(e) Any variance requests must be accompanied by a nonrefundable fee in accordance with Chapter XVI, Section 16-105, Board of Zoning Appeals, of the code of the city.

12A-204. PERMIT DURATION; INDIVIDUAL SIGNS. A sign for which approval has been granted by the Planning Administrator or the Board of Zoning Appeals shall be erected within one hundred eighty (180) days of the approval. Failure to complete placement of a sign within such period shall cause the approval to expire and require the sign owner to obtain a new sign permit before such sign can be erected, unless the sign contractor has asked for and been granted an extension in writing before the permit expires.

12A-205. EXEMPTIONS. Subject to the hereinafter specified conditions and limitations, and provided that the following signs or sign devices are not prohibited by Section 12A-203, the following are exempted from the provisions of this article:

(a) OFFICIAL NOTICES. Official government notices and notices posted by federal, state or local government officers or employees in the performance of their official duties; and government signs to control traffic, identify streets, warn of danger or perform other regulatory purposes.

(b) FLAGS. The flag, pennant or insignia of any nation, organization of nations, state, province, country, city, religious, civic or fraternal organization or educational institution; provided, however, that a permit shall be required when such are used in connection with a commercial promotion or as an advertising device; and provided, further, that all such flags are subject to the following limitations:

(1) Flags and pennants shall not exceed the proportions which have been established by Presidential declaration, to-wit: three (3) feet by five (5) feet when hung from a building, or five (5) feet by seven (7) feet when hung from a flagpole.

(2) Flags shall have a minimum clearance of eight (8) feet when they project over public sidewalks and fifteen (15) feet when projecting over streets or roads.

(3) A maximum of thirty (30) feet from the top of a flagpole to average grade shall be allowed.

(4) Flags, pennants and insignia shall be maintained in a clean and undamaged condition at all times.

(5) The display of national flags, pennants and insignia shall be governed by the standard rules of international protocol.

(c) ART. Works of art not used in connection with a commercial promotion or as an advertising device.

(d) WARNING SIGNS. Temporary or permanent signs erected by the City, public utility companies or construction companies to warn of danger or hazardous conditions, including signs indicating the presence of underground cables, gas lines or similar devices.

(e) MERCHANDISE. Merchandise or models of products or services which are incorporated as an integral part of an indoor window display. Merchandise includes photographic window displays of real estate available for sale, lease or rental from a licensed real estate broker.

(f) SIGNS ON VEHICLES. Signs displayed on motor vehicles or trailers which are being operated or stored in the normal course of business, such as signs indicating the name of the owner or business which are located on delivery trucks, trailers and the like; provided, however, that the primary purpose of such vehicles is not for the display of signs, and provided that such vehicles are parked or stored in areas appropriate to their use as vehicles and in the proper zoning.

(g) CORNERSTONES. Cornerstones and the like, when carved into stone, concrete, bronze or other permanent material, and made an integral part of a building or structure, when they do not exceed four (4) square feet in size.

(h) HISTORIC PLAQUES. Historic plaques erected by the city or historic agencies designating any areas of historical significance.

(i) FOR SALE/FOR RENT SIGNS. Any temporary sign used for the purpose of giving notice of the sale or rental of real property may be displayed, provided that said sign does not exceed sixteen (16) square feet in area; AND, provided that no more than one such sign for each street frontage may be erected per lot; AND, provided that the sign is removed within seven (7) days after the sale or rental of the subject property.

(j) CHANGE OF COPY. Changing of the advertising copy on a sign specifically designed to permit changes of the copy or message thereof.

(k) PAINTING, REPAINTING, REPAIR OR CLEANING OF A SIGN. Provided, however, that this exemption shall not apply if the color scheme or design of an existing sign is altered or if such painting or repainting results in a different business being advertised by the sign.

(l) SIGNS AUTHORIZED BY LAW. Signs required or specifically authorized for a public purpose by any law, statute or ordinance, such as “No Trespassing” signs; provided, however, that no such sign shall be placed in a public right-of-way unless specifically required or authorized by law, statute or ordinance; and, except for warning signs or barricades of a temporary nature, such signs shall be permanently affixed to the ground, a building or other structure. Such signs shall not exceed the minimum number required to accomplish the purpose.

(m) DIRECTIONAL/INFORMATION SIGNS. Signs containing no advertising, provided that each sign does not exceed six (6) square feet in area, and limited to

a total of twelve (12) square feet for any one (1) business. Businesses having more than one (1) public entrance are allowed an additional six (6) square feet of sign area for the display of information signage at the secondary entrance. Any sign over six (6) square feet requires a permit and counts as a wall or building sign.

(n) POLITICAL SIGNS. Signs six (6) square feet or less in size indicating support for or opposition to a political candidate or political question. Such signs shall not be erected or placed prior to forty-five (45) days before an election, and shall be removed within seven (7) days following the election. No such signs shall be placed upon or shall extend into any public property or right-of-way.

(o) BUMPER STICKERS. Bumper stickers or similar expressions of non-commercial speech affixed to motor vehicles.

(p) PICKET SIGNS. Signs used by persons engaged in lawful picketing activities.

(q) SEASONAL DECORATIONS. Temporary, non-commercial decorations or displays when such are clearly incidental to, and are customarily or commonly associated with, any national, local or religious celebration; provided, however, that such decorations or displays are maintained in an attractive condition and do not constitute a fire hazard.

(r) RESIDENTIAL NAMEPLATES.

(s) CIVIC EVENTS POSTERS AND ANNOUNCEMENTS. Posters, flyers and announcements promoting civic events may be displayed, but shall not contain advertisements for products or services not associated with the civic event.

(t) SCOREBOARDS ON ATHLETIC FIELDS.

(u) GRAVESTONES.

(v) RELIGIOUS SYMBOLS NO LARGER THAN SIXTY (60) SQUARE FEET. Any religious symbol larger than sixty (60) square feet must be reviewed and approved by the Planning Administrator.

(w) COMMEMORATIVE PLAQUES NOT EXCEEDING FOUR (4) SQUARE FEET.

(x) HOLIDAY DECORATIONS UTILIZED ON A TEMPORARY BASIS.

(y) OPEN/CLOSED SIGNS NOT TO EXCEED FOUR (4) SQUARE FEET.

(z) WINDOW SIGNAGE. Provided, for safety reasons, that such signage shall cover no more than fifty percent (50%) of the window.

(aa) BANNERS FOR COMMERCIAL USE. A maximum of two (2) only, no larger than thirty (30) square feet, attached to building or fence belonging to the business that is advertising a grand opening sale, product for sale or civic event.
(Ord. 890)

12A-206. PROHIBITED SIGNS. It is unlawful for any person to erect, construct or maintain any of the following types of signs or devices:

(a) Roof signs, with the exception that signs may be allowed on false storefronts, mansards or fascias if the sign does not exceed the roof line over the false storefronts, fascia or mansard roof line.

(b) Parked vehicles used for commercial advertising purposes, except as provided in Article 4 of this chapter, including but not limited to automobiles, trucks, buses, semi-trucks (attached or detached), trailers, mobile homes, boats, vans and the like, shall not be used as signs or sign structures.

(c) Signs constituting a traffic or pedestrian hazard.
(d) Signs which simulate, imitate or conflict with traffic signals or signs.
(e) Signs which do not advertise an operative business.
(f) Billboard signs.

(Ord. 890)

12A-207. NON-CONFORMING SIGNS; ILLEGAL NON-CONFORMING SIGNS. The Planning Administrator shall give notice by certified mail, return receipt requested, for all illegal non-conforming signs erected prior to the effective date of the ordinance codified in this chapter. Notification shall be sent to the owner of the sign at the address of the property where the sign is located. If, within thirty (30) days from service of the notice, the sign has not been removed, the Planning Administrator may cause it to be removed and the cost of removal shall be charged as provided in Article 6 of this chapter. If removed by the city, the sign will be disposed of in whatever manner that the city decides. (Ord. 890)

12A-208. SURVEY. Upon adoption of the ordinance codified in this chapter, the Planning Administrator shall conduct a survey of all signs within the city to identify those signs which are not in compliance with this chapter. (Ord. 890)

12A-209. LEGAL NON-CONFORMING SIGNS. Permanent signs legally erected prior to the effective date of the ordinance codified in this chapter which are not prohibited signs under Section 12A-206 shall be deemed to be legal non-conforming signs. Such signs shall be maintained notwithstanding their non-compliance with this article; provided, however, that such non-conforming signs shall not be: (a) expanded; (b) reestablished after damage or destruction if the estimated cost of the reconstruction exceeds fifty percent (50%) of the estimated replacement as determined by the Planning Commission. This provision (Section 12A-209) shall not apply to billboard signs. (Ord. 890)

12A-210. REMOVAL OF SIGNS.

(a) The Planning Administrator shall remove or cause to be removed any abandoned, dangerous, defective, illegal or prohibited sign subject to removal under the provisions of this chapter which has not been removed within the time period specified in this chapter, or any other sign maintained in violation of the provisions of this chapter. The Planning Administrator shall prepare a notice which shall describe the sign and specify the violation involved and which shall state that if the sign is not removed or the violation is not corrected within thirty (30) days, the sign shall be removed in accordance with the provisions of this chapter.

(b) The notice shall be mailed or given to the owner of the sign, or the occupant of the property upon which the sign is located or their employee or representative, or to the owner of the property upon which the sign is located as shown on the records of the register of deeds.

(c) In addition, any temporary sign placed on private property in violation of any provision of this chapter may be removed and impounded by the Planning Administrator. The Planning Administrator shall state that if the sign is not removed or the violation not corrected within seventy-two (72) hours, the sign shall be impounded. This notice shall be served upon the owner or agent of such sign and where possible, upon the occupant of the property where the sign is located.

Such sign shall be retained by the Planning Administrator for a period of thirty (30) days, after which it may be disposed of in any manner deemed appropriate by the city. Such sign may be recovered by the owner within thirty (30) days upon payment of a service charge of sixty dollars ($60) per sign.

(d) Notwithstanding the above, in cases of emergency, the Planning Administrator may cause the immediate removal of a dangerous or defective sign without notice.

(e) Any person having an interest in a sign or the property owner which the sign is located may appeal the determination of the Planning Administrator ordering removal or compliance by filing a written notice of appeal.
(Ord. 890)

12A-211. APPEALS. Any person may appeal the determination of the Planning Administrator as set forth in Section 12A-203 by filing a notice of appeal. All appeals shall be filed with the Board of Zoning Appeals for hearing. (Ord. 890)

12A-212. GENERAL LIMITATIONS ON SIGNS. All signs, whether a permit is required or not, shall be subject to the general limitations contained in this Article 12. (Ord. 890)

12A-213. MAINTENANCE. (a) All signs shall be structurally sound, shall be maintained in good repair and shall not constitute a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation or electrical shock. The display surfaces of all signs shall be kept neatly painted and maintained at all times. In addition to other remedies provided for in this Chapter 12A, the Planning Administrator shall have the authority to order the painting, repainting, repair, maintenance or removal of any sign which has become dilapidated or in disrepair.

(b) If such a condition is determined to exist, the Planning Administrator shall give notice thereof by certified mail, return receipt requested, to the owner of the sign at the address shown on the sign permit. If, within thirty (30) days from service of the notice, the Planning Administrator's order is not complied with, the Planning Administrator may remove the sign or cause it to be removed, and the cost of removal shall be charged against the sign owner and the sign owner's property as provided in Section 12A-209. If removed by the City, the sign shall be held by the City, available for the owner to retrieve at a fee of Fifty Dollars ($50), for not more than thirty (30) days, and it may not be erected until brought into compliance with this Chapter. All signs not retrieved by the owner within thirty (30) days may be disposed of by the City in whatever manner it so chooses.
(Ord. 890)

12A-214. BUILDING AND ELECTRICAL PERMITS. All signs that are in a new development that require permits for building and trades are required to use the most currently adopted version of the electrical code, with permits being taken out by a licensed building and/or electrical contractor. (Ord. 890)

12A-215. CONFUSING OR DANGEROUS SIGNS. No sign shall:

(a) in any way obstruct the view of, or be prone to confusion with, an official traffic sign, signal or device or any other official sign;

(b) obstruct the view of motor vehicle operators entering a public roadway from any parking area, service drive, private driveway, alley or other thoroughfare;

(c) obstruct free ingress to or egress from required doors, windows, fire escapes or other required exits;

(d) be attached to utility poles or to trees;

(e) be near any driveway approach. No ground sign exceeding a height of three (3) feet, permanent or temporary, shall be located within a triangle, the sides of which are formed by the property line, the edge of the driveway as extended from the street, and a line from a point on the property line twenty-five (25) feet from the driveway to a point on the edge of the driveway six (6) feet behind the property line.

(f) No portion of a sign that is located within the triangle formed by the imaginary intersection of curb lines at the intersection of two (2) streets, and extending for a distance of fifty (50) feet each way from that imaginary intersection of curb line of any corner lot, shall be permitted to extend closer than ten feet to grade of adjacent roadway surface.

(Ord. 890)

12A-216. NO SIGNS ON PUBLIC PROPERTY. No signs shall be placed on or within any public right-of-way or public place without the approval of the Planning Administrator. (Ord. 890)

12A-217. ADJUSTMENTS TO ALLOWED ON-SITE SIGN AREA. Only fifty percent (50%) of the surface area per sign face or one (1) side of the sign shall be counted against allowed sign area. The two (2) sides of a double-faced sign must be parallel back to back, and no more than thirty-six (36) inches between the two faces to be considered a double-faced sign. (Ord. 890)

ARTICLE 3. PERMANENT SIGNS

12A-301. REGULATIONS. The following regulations shall apply to the specific permanent signs as indicated. The total area of these signs shall be counted against the total allowable sign area as provided in Article 5 of this chapter. (Ord. 890)

12A-302. AWNINGS. Any portion of an awning containing the name of the business or other sign shall be counted as a sign. In addition, the following regulations shall apply to awnings:

(a) No awning shall block the view of other signs or extend over the public right-of-way or public place without City approval.

(b) There shall be a minimum clearance of at least eight (8) feet between the bottom of the awning and the ground at grade.

(c) All awning supports must be set back a minimum of one (1) foot from any city right-of-way or public property unless specifically allowed by the Planning Commission.

(Ord. 890)

12A-303. DIRECTORY SIGNS. Directory signs may be wall-mounted or freestanding, and the aggregate area of such sign shall be counted against the allowable sign area established by this Chapter 12A and a permit required if over four (4) square feet in size and three (3) feet in height if ground sign. The individual signs of a directory sign shall be of a coordinated design, with each of the individual signs sharing at least two (2) of the following as design elements in common: size, shape, materials, letter style or color. (Ord. 890)

12A-304. ELECTRONIC MESSAGE SIGNS, ALSO KNOWN AS LED, LCD or DIGITAL SIGNS.

(a) Applications for electronic message signs shall be accompanied by the following information:

(1) specifications from the sign manufacturer providing the maximum "nit" (or equivalent) rating of sign;

(2) information from the sign manufacturer indicating the type of dimming control that will be provided with the sign to ensure the sign is appropriately dimmed at night.

(3) a signed letter from the property or business owner for whom the sign is being installed that acknowledges the property or business owner's agreement to abide by the Sign Code regulations governing dimming the sign at night.

(4) The provisions of this chapter shall not be required for electronic message signs that have a maximum brightness and/or light intensity rating of 3,000 nits (or equivalent) or less. A nit means a unit of luminance equal to one candela (one candle) per square meter.

(Ord. 890)

12A-305. FREESTANDING SIGNS.

(a) There shall be no more than one (1) freestanding sign for each lot of less than one hundred fifty (150) feet of frontage. If property is a multi-tenant space, there shall be allowed one (1) multi-tenant sign for all tenants.

(b) No freestanding sign shall extend over or into a public right-of-way or public property, and all freestanding signs shall be placed at least fifteen (15) feet in from any side interior property lines.

(c) The square footage of the architectural elements of a monument sign shall not be counted against the allowed sign area in those instances where the architectural elements do not exceed the allowed square footage of the sign itself. This does not include a pole cover unless it is over one-half (1/2) the width of the sign itself.

(Ord. 890)

12A-306. IDENTIFICATION SIGNS FOR MULTI-FAMILY DWELLINGS AND OTHER MAJOR OFFICE AND INSTITUTIONAL USES. Such signs shall not exceed sixteen (16) square feet in area except along designated collector, arterial or expressway streets where the maximum sign area shall be forty-two (42) square feet. Said signs shall be no more than twenty (20) feet in height, and shall be limited to indirect or internal illumination of white light only. (Ord. 890)

12A-307. INDIVIDUAL OR PAINTED LETTERS. Individual letters mounted on a building surface and letters painted on a building constitute wall signs, and the aggregate area of such signs shall be counted against the allowable sign area established by this chapter, except for address numbers. (Ord. 890)

12A-308. MENU BOARD SIGN.

(a) Allowed in most commercial zoning except in "NO" Neighborhood Office, "GO" General Office, or "NR" Neighborhood Retail zoning district.

(b) Signs shall be limited to a maximum of two (2), fifty (50) square feet each, or one (1) at one hundred (100) square feet, for the display of menu items, pictures and/or prices and shall be located so as not to impede flow of traffic. Smaller menu boards of up to six (6) square feet may be located at individual parking stalls instead of the freestanding described above.

(c) These signs do not count against the allowable signs for the zoning lot.
(Ord. 890)

12A-309. PROJECTING OR HANGING SIGNS.

(a) Projecting or hanging signs may not extend above the second floor of any building.

(b) Projecting signs shall not be located above the eaves line or parapet wall of any building and shall not project over a public right-of-way.

(c) No projecting sign shall extend more than four (4) feet from a building wall.

(d) The two (2) sides of a projecting or hanging sign must be parallel back to back and shall not exceed twelve (12) inches in thickness.

(e) The allowable size of any projecting or hanging sign shall not include the sign structure, but in no instance shall the sign structure exceed one-half (1/2) the square footage of the sign itself.
(Ord. 890)

12A-310. PROPERTY MANAGEMENT SIGNS. Each property management company may receive a permit for property management signs within a multi-family complex, provided that the signs meet the general requirements of the sign code and the following criteria:

(a) Sign design and materials shall comply with the property's designated sign zone.

(b) Property management signs shall not exceed three (3) square feet and shall be limited to not more than one (1) sign per building.

(c) Signs shall be wall-mounted only; no freestanding signs.

(d) Signs shall not be directed toward any public right-of-way, but rather toward the interior of the complex. Signs shall not face public streets.
(Ord. 890)

12A-311. RESIDENTIAL COMPLEX SIGNS. Up to two (2) building or project identification signs shall be permitted for each multi-family project. Such signs shall not exceed one hundred (100) square feet in total. (Ord. 890)

12A-312. SUBDIVISION ENTRANCE SIGNS.

(a) There shall be no more than one (1) freestanding subdivision entry sign per subdivision entry and shall not exceed forty (40) square feet in size and twelve (12) feet in height. If they choose, they can have two (2) signs mounted, one (1) each on a retaining wall on either side of the entry in place of the one (1) freestanding sign. They cannot be any larger than twenty (20) square feet each.

(b) For each subdivision entrance sign, there shall be a landscaped and maintained area at the base of each sign at least two (2) square feet in area for each square foot of each side of the sign and supporting structure, with a minimum landscaped area of twenty-four (24) square feet. Such area shall be kept in a neat and clean condition and shall be kept free of rubbish, weeds and trash. (Ord. 890)

12A-313. WALL SIGNS. Wall signs shall not be mounted higher than the eaves line or parapet wall of the principal building, and no portions of such wall signs, including individual letters, shall project more than eighteen (18) inches from the building. (Ord. 890)

ARTICLE 4. TEMPORARY SIGNS ALLOWED

12A-401. TEMPORARY BANNERS. Temporary banners are limited to advertising for a sale, grand opening or event. There shall be a maximum of only two (2) temporary banners at any business location, provided that they are not more than thirty (30) square feet in size and must be hung on the building or fence belonging to the business. There shall be no permit required for temporary banners, and such banners shall not be charged against the maximum allowable sign area as described in Article 5 of this chapter. (Ord. 890)

12A-402. CIVIC EVENT BANNERS. (a) Civic event banners shall not be greater than four (4) feet by sixty (60) feet in size.

(b) A permit to erect a banner may only be issued for banners which announce or promote a civic event, which welcome participants to conventions or similar gatherings or which serve as decorations for a special holiday.

(c) Civic event banners shall have a minimum clearance of eight (8) feet over pedestrian ways and eighteen (18) feet over streets.

(d) Civic event banners allowed under this provision may be hung two (2) weeks prior to the opening of the event or activity being promoted and shall be removed within seven (7) days after the conclusion of such event or activity. (Ord. 890)

12A-403. DIRECTIONAL SIGNS. (a) Temporary directional signs shall not be greater than eight (8) square feet in size.

(b) Temporary, non-illuminated directional signs shall be permitted for special events.

(c) Such signs shall not be displayed for longer than four (4) consecutive days, and shall be placed so as not to create a hazard for pedestrian or vehicular traffic.

(d) Directional signs may be placed off-site if it is necessary to direct participants to the proposed special event and if their placement does not create a

traffic or safety hazard and is not detrimental to the health, safety and welfare of the community.
(Ord. 890)

12A-404. REAL ESTATE DEVELOPMENT SIGNS. (a) Real estate development signs shall not be greater than one hundred (100) square feet in size, one (1) per development or each real estate development site.

(b) A real estate development sign may be displayed commencing with the issuance of approval of the project by the city and shall be removed at or before the time of the issuance of the last certificate of occupancy; provided, however, that if a building permit for the project identified by the sign is not issued within one (1) year after the approval of the project by the City, the sign must be removed.

(c) If no permits are issued within any one (1) year period for the development, then said real estate development sign shall be removed.

(d) The sign shall be located on a vacant lot and must be removed when a permit for a house is pulled for that lot.

(e) The requirement for a permit and the cost is the same as any permanent sign as in Section 12A-202.
(Ord. 890)

12A-405. REAL ESTATE OPEN HOUSE SIGNS. Two (2) real estate open house signs may be allowed off-site for each property for sale, if the proposed signs meet the following criteria:

(a) The off-premises *Open House* signs shall not be greater than six (6) square feet in size.

(b) The off-site *Open House* signs shall not be placed on any sidewalk, bikeway, travel lane or highway median, nor in any manner where, in the opinion of the City, the sign would constitute a safety hazard.

(c) The off-site *Open House* signs shall be located no closer than five (5) feet to any travel way, whether paved or gravel, and no closer than fifteen (15) feet to the intersection of any two (2) public roads.

(d) The off-site *Open House* signs may not exceed three (3) feet in height from ground level, and shall not be placed on any tree, fence, public sign or signpost.

(e) The off-site *Open House* signs may only be displayed between the hours of 7:00 a.m. and 9:00 p.m.

(f) The off-site *Open House* signs shall only be displayed when a real estate agent is available on the premises for sale.

(g) Only one (1) off-site *Open House* sign per business, or per owner when the property is being sold without the aid of an agent, may be located at the same street intersection, and no two (2) signs from the same business shall be located closer than three hundred (300) feet from each other.

(h) No off-site *Open House* signs shall be used to direct citizens to a place of business, nor shall they be utilized for any property not for sale.

(i) No *Open House* sign may be located further than one (1) mile from the property offered for sale.
(Ord. 890)

12A-406. GARAGE SALE SIGNS. Garage sale signs which announce the sale of used items from a residence must meet the following standards:

(a) A maximum of two (2) signs may be placed on private property at intersections for any garage/yard sale with permission of business or property owner.

(b) A maximum of four (4) square feet per sign is allowed.

(c) Signs shall be removed on the last day of the sale.

(d) Garage/yard sale signs are not allowed to be attached to utility poles or light poles.

(Ord. 890)

12A-407. SANDWICH BOARD SIGNS. (a) Only one (1) sandwich board sign is permitted per business. It must be located within fifteen (15) feet of the main entrance of the premises being advertised and must not interfere with movement of pedestrians.

(b) Sandwich board signs shall not exceed thirty (30) inches in width and thirty-six (36) inches in height.

(c) Such signs may be displayed during permitted store hours and when the store is open for business.

(d) Such signs shall not be electrical in any form and shall not display lights or contain moving parts.

(Ord. 890)

12A-408. PROPERTY FOR SALE SIGNS AND PROPERTY FOR RENT SIGNS. Property for Sale signs and Property for Rent signs shall not be greater than thirty-two (32) square feet in size for commercial property and six (6) feet for residential property, and one (1) such sign per property per each street frontage is allowed. (Ord. 890)

12A-409. COMMERCIAL BALLOONS. An on-site, temporary sign that is inflated and exceeds five (5) square feet in area, designed to advertise a specific product or service sold, produced or conducted on the premises on which advertising copy, logos, symbols or emblems may or may not be printed, painted or attached. Commercial balloons may be tethered or mounted to a structure or on the ground.

(a) Such signs shall be limited to four (4) permits per calendar year per business and are allowed for a period of no more than fourteen (14) days at a time.

(b) The cost will be fifty dollars ($50) and the permit must be pulled by a licensed sign contractor.

(c) The commercial balloon sign shall be limited to a maximum of one hundred sixty (160) square feet in area as measured at the largest cross-section and also limited to one (1) balloon sign per zoning lot at any given time.

(Ord. 890)

12A-410. PORTABLE SIGNS. A temporary on-site sign designed in such a manner as to be readily movable and not permanently attached to the property, such as A-frames, trailer signs, signs placed on vehicles, beacon lights and other similar signs. Any such sign shall not exceed a height of eight (8) feet above grade and shall not exceed sixty (60) square feet per side in gross surface area. Such signs

shall meet the distance requirements that are required in their zoning for each freestanding sign. If the sign does not meet such size and height requirements, it may not be placed without obtaining a variance. A decal for the current year must also be displayed. (Ord. 890)

ARTICLE 5. DESIGN STANDARDS AND MAXIMUM SIGN AREAS AND HEIGHT FOR PERMANENT SIGNS.

12A-501. ZONING DISTRICT STANDARDS. Specific sign restrictions for individual zoning districts are as outlined below, except that all signs, including portable signs where allowed shall have a minimum of one hundred fifty (150) feet of separation between adjacent signs. (Ord. 890)

12A-502. SIGNS PERMITTED IN THE "RR", "SF-20", "SF-10", "SF-5", "TF-3", "MF-18", "MF-29", and "B" RESIDENTIAL ZONING DISTRICTS. (a) Identification signs for multi-family dwellings and major office uses. Such signs shall not exceed sixteen (16) square feet in area except along designated collector, arterial or expressway streets where the maximum sign area shall be forty-two (42) square feet. Said signs shall be no more than twenty (20) feet in height, and shall be limited to indirect or internal illumination of white light only.

(b) Identification signs for institutional uses along designated collector, arterial or expressway streets shall be allowed to be up to one hundred (100) square feet in size, with a maximum height of twenty (20) feet and may include electronic message components.

(c) Subdivision entrance signs as set forth in Section 12A-312, provided that no such sign shall exceed forty (40) square feet in size and twelve (12) feet in height from ground level.

(d) Residential complex signs as set forth in Section 12A-311.

(e) Property management signs as set forth in Section 12A-310.

(Ord. 890)

12A-503. SIGNS PERMITTED IN THE "NO" NEIGHBORHOOD OFFICE, "NR" NEIGHBORHOOD RETAIL DISTRICTS.

(a) Ground or pole identification signs, provided no sign shall exceed thirty-two (32) square feet of gross surface area on a single-tenant zoning lot. Multi-tenant lots sharing the same sign structure may have up to twenty-four (24) square feet each not to exceed a total of ninety-six (96) square feet on the zoning lot. Sign height shall not exceed twelve (12) feet. Only one (1) ground or pole sign shall be permitted for any office or business; provided, however, when more than one (1) business is located on a zoning lot, additional signs may be permitted when a distance separation of one hundred fifty (150) feet along the street frontage is maintained. When the distance separation of one hundred fifty (150) feet does not permit each individual business a sign, the business shall share the use of the permitted number of signs. Under no circumstance shall the total gross surface area of all ground or pole signs on a zoning lot exceed one-half (1/2) square foot per linear foot of frontage; provided, however, a zoning lot with sixty-four (64) feet or less frontage shall be permitted a sign of thirty-two (32) square feet of gross surface area. No ground or pole sign shall be located closer than fifteen (15) feet to an adjacent property. Any sign permitted by this section shall be

limited to indirect or internal illumination of white light only and without flashing or moving images.

(b) Portable signs shall not be allowed except for institutional uses on a temporary basis.

(c) Wall signs not exceeding thirty-two (32) square feet in area or thirty (30) feet in height, and limited to one (1) per building elevation for each major use in the building, provided that the total amount of wall signage for each major use in the building does not exceed thirty-two (32) square feet; and provided that the building elevation to which any sign is to be attached shall have one of the following:

(1) street frontage;

(2) be adjacent to a nonresidential zoning district; or

(3) if adjacent to a residential zoning district, there must be a parking, loading or open space area with a depth of one hundred fifty (150) feet or more as measured from the sign face to the property line which adjoins the residential zoning district. Such signs shall be limited to direct or internal illumination of white light only and without flashing or moving images.

(d) Adjacent to Maize Road, 37th Street, 53rd Street, Tyler Road, and 119th Street, no pole signs shall be allowed. All signs on these designated arterials shall be monument type only with maximum size and location subject to conditions in Section 12A-503(a).

(e) Property in the "NO" or "NR" district which is part of a Community Unit Plan, regardless of its location along an arterial as outlined in Section 12-503(d), may have pole signs allowed if permitted by the Planning Commission and the City Council as a provision of the Community Unit Plan.

(Ord. 890)

12A-504. SIGNS PERMITTED IN THE "GO" GENERAL OFFICE DISTRICT.

(a) On-site ground or pole signs:

(1) Number Permitted. The number of ground or pole signs permitted on a zoning lot shall be determined by the linear feet of street frontage of the zoning lot. Where a zoning lot has street frontage on more than one (1) street, the provisions of this section shall apply to each street frontage; provided, however, signs permitted by a street frontage must be adjacent to, and face the direction of travel along said street.

EXCEPTION: On zoning lots adjoining designated collector or arterial streets or expressways to which the zoning lot has no direct, legal vehicular access, one (1) ground or pole sign not exceeding sixty-four (64) square feet in area and fifteen (15) feet maximum height above grade shall be permitted along such collector or arterial street or expressway; provided that any such ground or pole sign shall only be permitted in lieu of wall signs otherwise allowed on the building elevation facing the same street. One (1) ground or pole sign shall be permitted for any street frontage. When the distance separation of one hundred fifty (150) feet does not permit each individual business a sign, the businesses shall share the use of the permitted number of signs. Under no circumstance shall the total gross surface area of all ground or pole signs on a zoning lot street frontage exceed the table of areas "maximum square feet of all signs per linear foot of street frontage" set forth in Table 1 of this chapter.

(2) Size permitted. The size of an on-site ground or pole sign shall not exceed the maximums set forth in the "Table of Areas" below; provided, however, the total sign area of all on-site ground or pole signs on the zoning lot shall not exceed the "total permitted area in square feet of all signs per linear foot of street frontage" adjacent to street frontage.

TABLE OF AREAS (Table 1)

Maximum Permitted Areas for
On-Site Ground or Pole Signs
in "GO" District
Total Permitted Area

Type of Street	Maximum Area of Individual Sign in Square Feet	in Square Feet of All Signs per Lineal Foot of Street Frontage
Undesignated	50	.5
Collector	75	.5
Arterial	100	.75
Expressway	100	.75

(3) Height Limit. No ground or pole sign shall exceed a height of fifteen (15) feet.

(4) Location on Property. On-site ground or pole signs shall not project over public right-of-way, and shall be located not closer to an adjacent property line than one-third (1/3) the frontage of the zoning lot or fifteen (15) feet, whichever is less. The centerline of an alley shall be considered an adjacent property line. When more than one (1) ground or pole sign is permitted on a zoning lot, there shall be maintained a minimum horizontal distance between signs of one hundred fifty (150) feet along the same street frontage.

EXCEPTION: A sign located within fifty (50) feet of the intersection of two (2) streets on a corner lot may be placed so that it may face both directions of travel, such as a sign being erected on an angle. When this occurs, it shall be considered a sign adjacent to each street and one-half (1/2) of the sign area shall be charged against the total permitted sign area of each street frontage.

EXCEPTION: The Planning Administrator may vary these minimum horizontal distances up to thirty percent (30%) when circumstances related to the physical features of the zoning lot prevent the installation of the sign at the minimum horizontal distances. The reduction of these minimums shall in no way change the number of signs permitted on a zoning lot.

(b) Portable signs shall not be allowed except for institutional uses on a temporary basis.

(c) Wall signs not exceeding thirty-two (32) square feet in area or thirty (30) feet in height, and limited to one (1) per building elevation for each major use in the building, provided that the total amount of wall signage for each major use in the building does not exceed thirty-two (32) square feet; and provided that the building elevation to which any sign is to be attached shall have one of the following:

(1) street frontage;

(2) be adjacent to a nonresidential zoning district; or

(3) If adjacent to a residential zoning district, there must be a parking, loading or open space area with a depth of one hundred fifty (150) feet or more as measured from the sign face to the property line which adjoins the residential zoning district. Such signs shall be limited to direct or internal illumination of white light only and without flashing or moving images.

(d) Adjacent to Maize Road, 37th Street, 53rd Street, Tyler Road and 119th Street, no pole signs shall be allowed. All signs on these designated arterials shall be monument type only, with maximum height, maximum size and location subject to conditions in 12A-504(a).

(e) Property in the "GO" district which is part of a Community Unit Plan, regardless of its location along any arterials as outlined in 12A-504(d) may have pole signs allowed if permitted by the Planning Commission and the City Council as a provision of the Community Unit Plan.
(Ord. 890)

12A-505. SIGNS PERMITTED IN THE "MH" MOBILE HOME DISTRICT. An identification sign for a mobile home park shall have one (1) sign at the entrance to the park. Such sign shall not exceed ten (10) feet in height or exceed forty (40) square feet in area, and shall be limited to indirect or internal illumination of white light only. (Ord. 890)

12A-506. SIGNS PERMITTED IN THE "LC" LIMITED COMMERCIAL DISTRICT.

(a) Illuminated on-site ground or pole signs.

(1) Number Permitted. The number of ground or pole signs permitted on a zoning lot shall be determined by the linear feet of street frontage of the zoning lot. Where a zoning lot has street frontage on more than one (1) street, the provisions of this section shall apply to each street frontage; provided, however, signs permitted by a street frontage must be adjacent to and face the direction of travel along said street.

EXCEPTION: On zoning lots adjoining designated collector, arterial streets or expressways to which the zoning lot has no direct, legal vehicular access, one (1) ground or pole sign not exceeding one hundred fifty (150) square feet in area and twenty-five (25) feet maximum height above grade of adjacent roadway shall be permitted along such collector or arterial street or expressway; provided that any such ground or pole sign shall only be permitted in lieu of wall signs otherwise allowed on the building elevation facing the same street. Ground or pole signs shall be permitted for any street frontage. When the distance separation of one hundred fifty (150) feet does not permit each individual business a sign, the businesses shall share the use of the permitted number of signs. Under no circumstance shall the total gross surface area of all ground or pole signs on a zoning lot street frontage exceed the table of areas "maximum square feet of all signs per linear foot of street frontage" set forth in Table 2 of this chapter.

(2) Size Permitted. The size of an on-site ground or pole sign shall not exceed the maximums set forth in the "table of areas" below; provided, however, the total sign area of all on-site ground or pole signs on the zoning lot shall not exceed the "total permitted area in square feet of all signs per linear foot of street frontage" adjacent to street frontage providing legal, direct vehicular access onto the zoning lot.

(3) Menu boards allowed as in Section 12A-308.

TABLE OF AREAS (Table 2) Maximum Permitted Areas for On-Site Ground or Pole Signs in "LC" District Total Permitted Area		
Type of Street	Maximum Area of Individual Sign in Square Feet	in Square Feet of All Signs per Lineal Foot of Street Frontage
Undesignated	50	1
Collector	100	1
Arterial	150	1.5
Expressway	150	1.5

(4) Height Limit. No ground or pole sign shall exceed a height of twenty-five (25) feet, except for signs located adjacent to an elevated roadway which shall be limited to a height of twenty-five (25) feet in height from grade of elevated roadway.

(5) Location on Property. On-site ground or pole signs shall not project over public right-of-way, and shall be located not closer to an adjacent property line than one-third (1/3) the frontage of the zoning lot or fifteen (15) feet, whichever is less. The centerline of an alley shall be considered an adjacent property line. When more than one (1) ground or pole sign is permitted on a zoning lot, there shall be maintained a minimum horizontal distance between signs of one hundred fifty (150) feet along the same street frontage.

EXCEPTION: A sign located within fifty (50) feet of the intersection of two streets on a corner lot may be placed so that it may face both directions of travel, such as a sign being erected on an angle. When this occurs, it shall be considered a sign adjacent to each street and one-half (1/2) of the sign area shall be charged against the total permitted sign area of each street frontage.

EXCEPTION: The Planning Administrator may vary these minimum horizontal distances up to thirty percent (30%) when circumstances related to the physical features of the zoning lot prevent the installation of the sign at the minimum horizontal distances. The reduction of these minimums shall in no way change the number of signs permitted on a zoning lot.

(b) Wall signs; provided that any building elevation on which such sign is placed shall be required to have or comply with any one of the following:

(1) Street frontage;

(2) Be adjacent to an "NO" Neighborhood Office, "GO" General Office, "NR" Neighborhood Retail, "LC" Limited Commercial, "GC" General Commercial, "OW" Office Warehouse, "LI" Limited Industrial or "GI" General Industrial zoning district; or

(3) If adjacent to a residential use or zoning district, there must be a parking, loading or open space area with a depth of one hundred fifty (150) feet or more as measured from the sign face to the property line which adjoins the residential zoning district or use.

The sum of all signs for each business shall be limited in total area to twenty percent (20%) of each tenant space elevation with no sign exceeding two

hundred (200) square feet in area, and there shall be no more than three (3) signs for each tenant or business on each building elevation.

If adjacent to residential use or zoning, building elevations not having street frontage, but facing onto parking or loading areas exceeding fifty (50) feet but less than one hundred fifty (150) feet in depth, may provide identification signs for each place of business having an entrance therefrom; providing such signs shall not exceed fifteen (15) square feet in area nor be more than twelve (12) feet above grade at their highest point;

(c) Portable signs as set forth in Section 12A-410.

(d) Commercial balloon signs as set forth in Section 12A-409.

(e) Adjacent to Maize Road, 37th Street, 53rd Street, Tyler Road and 119th Street, no pole signs shall be allowed. All signs on these designated arterials shall be monument type only, with maximum height, maximum size and location subject to conditions in Section 12A-506(a).

(f) Property in the "LC" district which is part of a Community Unit Plan, regardless of its location along any arterial as outlined in Section 12A-506(d), may have pole signs allowed if permitted by the Planning Commission and the City Council as a provision of the Community Unit Plan.

(Ord. 890)

12A-507. SIGNS PERMITTED IN THE "GC" GENERAL COMMERCIAL DISTRICT.

(a) On-site ground or pole signs.

(1) Number Permitted. The number of ground or pole signs permitted on a zoning lot shall be determined by the linear feet of street frontage of the zoning lot. Where a zoning lot has street frontage on more than one street, the provisions of this section shall apply to each street frontage; provided, however, signs permitted by a street frontage must be adjacent to, and face the direction of travel along said street.

EXCEPTION: On zoning lots adjoining designated collector or arterial streets or expressways to which the zoning lot has no direct, legal vehicular access, one ground or pole sign not exceeding sixty-four (64) square feet in area and twenty-five (25) feet maximum height above grade shall be permitted along such collector or arterial street or expressway; provided that any such ground or pole sign shall only be permitted in lieu of wall signs otherwise allowed on the building elevation facing the same street. One (1) ground or pole sign shall be permitted for any street frontage. When the distance separation of one hundred fifty (150) feet does not permit each individual business a sign, the businesses shall share the use of the permitted number of signs. Under no circumstance shall the total gross surface area of all ground or pole signs on a zoning lot street frontage exceed the table of areas "maximum square feet of all signs per linear foot of street frontage" set forth in Table 3 of this chapter.

(2) Size Permitted. The size of an on-site ground or pole sign shall not exceed the maximum set forth in the "table of areas" below; provided, however, the total sign area of all on-site ground or pole signs on the zoning lot shall not exceed the "total permitted area in square feet of all signs per linear foot of street frontage" adjacent to street frontage providing legal, direct vehicular access onto the zoning lot.

TABLE OF AREAS (Table 3) Maximum Permitted Areas for On-Site Ground or Pole Signs in "GC" District Total Permitted Area		
Type of Street	Maximum Area of Individual Sign in Square Feet	in Square Feet of All Signs per Lineal Foot of Street Frontage
Undesignated	100	1
Collector	150	1
Arterial	200	2
Expressway	200	2

(3) Height Limit. No ground or pole sign shall exceed a height of twenty-five (25) feet.

(4) Location on Property. On-site ground or pole signs shall not project over public right-of-way, and shall be located not closer to an adjacent property line than one-third (1/3) the frontage of the zoning lot or fifteen (15) feet, whichever is less. The centerline of an alley shall be considered an adjacent property line. When more than one (1) ground or pole sign is permitted on a zoning lot, there shall be maintained a minimum horizontal distance between signs of one hundred fifty (150) feet, along the same street frontage.

EXCEPTION: A sign located within fifty (50) feet of the intersection of two (2) streets on a corner lot may be placed so that it may face both directions of travel, such as a sign being erected on an angle. When this occurs, it shall be considered a sign adjacent to each street and one-half (1/2) of the sign area shall be charged against the total permitted sign area of each street frontage.

EXCEPTION: The Planning Administrator or designee may vary these minimum horizontal distances up to thirty percent (30%) when circumstances related to the physical features of the zoning lot prevent the installation of the sign at the minimum horizontal distances. The reduction of these minimums shall in no way change the number of signs permitted on a zoning lot.

(b) Wall signs, provided that signs shall be limited in total area to twenty percent (20%) of each building elevation, and no individual sign shall exceed two hundred (200) square feet.

(c) Roof signs, except for commercial balloon signs, shall not be permitted.

(d) Portable signs as set forth in Section 12A-410.

(e) Commercial balloon signs as set forth in Section 12A-409.

(f) Menu Boards as set forth in Section 12A-308.

(g) Adjacent to Maize Road, 37th Street, 53rd Street, Tyler Road and 119th Street, no pole signs shall be allowed. All signs on these designated arterials shall be monument type only, with maximum height, maximum size and location subject to conditions in Section 12A-507(a).

(h) Property in the "GC" district which is part of a Community Unit Plan, regardless of its location along any arterial as outlined in Section 12A-507(d), may have pole signs allowed if permitted by the Planning Commission and City Council as a provision of the Community Unit Plan.

(Ord. 890)

12-508. SIGNS PERMITTED IN THE "LI" LIMITED INDUSTRIAL AND "GI" GENERAL INDUSTRIAL DISTRICT.

(a) On-site ground or pole signs under the following provisions:

(1) Number Permitted. The number of ground or pole signs permitted on a zoning lot shall be determined by the linear feet of street frontage of the zoning lot. Where a zoning lot has street frontage on more than one (1) street, the provisions of this section shall apply to each street frontage; provided, however, signs permitted by a street frontage must be adjacent to and face the direction of travel along said street.

EXCEPTION: On zoning lots adjoining designated collector or arterial streets or expressways to which the zoning lot has no direct, legal vehicular access, one (1) ground or pole sign not exceeding one hundred (100) square feet in area and twenty-five (25) feet maximum height above grade shall be permitted along such collector or arterial street or expressway; provided that any such ground or pole sign shall only be permitted in lieu of wall signs otherwise allowed on the building elevation facing the same street. One ground or pole sign shall be permitted for every one hundred fifty (150) feet of street frontage. When the distance separation of one hundred fifty (150) feet does not permit each individual business a sign, the businesses shall share the use of the permitted number of signs.

Under no circumstance shall the total gross surface area of all ground or pole signs on a zoning lot street frontage exceed the table of areas "maximum square feet of all signs per linear foot of street frontage" set forth in Table 4 of this chapter.

(2) Size Permitted. The size of an on-site ground or pole sign shall not exceed the maximum set forth in the "table of areas" below; provided, however, the total sign area of all on-site ground or pole signs on the zoning lot shall not exceed the "total permitted area in square feet of all signs per linear foot of street frontage" adjacent to street frontage providing legal, direct vehicular access onto the zoning lot.

TABLE OF AREAS (Table 4)
Maximum Permitted Areas for On-Site Ground or Pole Signs in "LI" and "GI" Districts
Total Permitted Area

Type of Street	Maximum Area of Individual Sign in Square Feet	in Square Feet of All Signs per Lineal Foot of Street Frontage
Undesignated	100	.5
Collector	150	.5
Arterial	200	1
Expressway	200	1

(b) Wall signs; provided that signs shall be limited in total area to twenty percent (20%) of each building elevation, and no individual sign shall exceed two hundred (200) square feet in area.

(c) Roof signs, except for commercial balloon signs, shall not be permitted except by a variance approved by the Board of Zoning Appeals.

(d) Portable signs; provided, however, only one (1) sign shall be permitted for an individual business. Any such sign shall be located in accordance with all other applicable regulations including, but not limited to, the area and spacing limitations for pole and ground signs, the location of the sign in relation to the street right-of-way line and the distance from driveway approaches. Such signs may be illuminated; however, strobe lights or flashing bulbs and flashing or moving images shall not be permitted. Any sign permitted by this section shall not exceed sixty (60) square feet in gross surface area.

(e) Height Limit. No ground or pole sign shall exceed a height of twelve (12) feet.

(f) Location on Property. On-site ground or pole signs shall not project over public right-of-way, and shall be located not closer to an adjacent property line than one-third (1/3) the frontage of the zoning lot or fifteen (15) feet, whichever is less. The centerline of an alley shall be considered an adjacent property line. When more than one (1) ground or pole sign is permitted on a zoning lot, there shall be maintained a minimum horizontal distance between signs of one hundred fifty (150) feet along the same street frontage.

EXCEPTION: A sign located within fifty (50) feet of the intersection of two (2) streets on a corner lot may be placed so that it may face both directions of travel, such as a sign being erected on an angle. When this occurs, it shall be considered a sign adjacent to each street and one-half (1/2) of the sign area shall be charged against the total permitted sign area of each street frontage.

EXCEPTION: The Planning Administrator may vary these minimum horizontal distances up to thirty percent (30%) when circumstances related to the physical features of the zoning lot prevent the installation of the sign at the minimum horizontal distances. The reduction of these minimums shall in no way change the number of signs permitted on a zoning lot.

(g) For purposes of this section, “street frontage” shall be the linear feet of street frontage directly adjacent to an adjoining street or street right-of-way from which there is direct, legal vehicular access to the zoning lot. In determining street frontage, one-half (1/2) the width of an adjoining alley may be considered as frontage.

(h) Portable signs as set forth in Section 12A-410.

(i) Commercial balloon signs as set forth in Section 12A-409.

(j) Menu Boards as set forth in Section 12A-308.

(k) Adjacent to Maize Road, 37th Street, 53rd Street, Tyler Road and 119th Street, no pole signs shall be allowed. All signs on these designated arterials shall be monument type only, with maximum height, maximum size and location subject to conditions in Section 12A-508(a), Section 12A-508(e), Section 12A-508(f) and Section 12A-508(g).

(l) Property in the “LI” or “GI” district which is part of a Community Unit Plan, regardless of its location along any arterial as outlined in 12A-508(d), may have pole signs allowed if permitted by the Planning Commission and the City Council as a provision of the Community Unit Plan.

(m) Pole signs may be allowed in the “LI” or “GI” district, regardless of the property’s location along any arterial as outlined in Section 12A-508(k) with the approval of the Planning Commission.

(Ord. 890)

12A-509. SIGNS PERMITTED IN THE "OW" OFFICE/WAREHOUSE DISTRICT.

(a) On-site ground or pole signs shall be allowed under the following provisions:

(1) Number Permitted. The number of ground or pole signs permitted on a zoning lot shall be determined by the linear feet of street frontage of the zoning lot. Where a zoning lot has street frontage on more than one (1) street, the provisions of this section shall apply to each street frontage; provided, however, signs permitted by a street frontage must be adjacent to and face the direction of travel along said street.

EXCEPTION: On zoning lots adjoining designated collector or arterial streets or expressways to which the zoning lot has no direct, legal vehicular access, one (1) ground or pole sign not exceeding sixty-four (64) square feet in area and twenty (20) feet maximum height above grade shall be permitted along such collector or arterial street or expressway; provided that any such ground or pole sign shall only be permitted in lieu of wall signs otherwise allowed on the building elevation facing the same street. One (1) ground or pole sign shall be permitted for any street frontage; provided, however, additional ground or pole signs may be permitted when a distance separation of one hundred fifty (150) feet along the street frontage is maintained between ground or pole signs. When the distance separation of one hundred fifty (150) feet does not permit each individual business a sign, the businesses shall share the use of the permitted number of signs. Under no circumstance shall the total gross surface area of all ground or pole signs on a zoning lot street frontage exceed the table of areas "maximum square feet of all signs per linear foot of street frontage" set forth in Table 5 of this chapter.

(2) Size Permitted. The size of an on-site ground or pole sign shall not exceed the maximums set forth in the "table of areas" below; provided, however, the total sign area of all on-site ground or pole signs on the zoning lot shall not exceed the "total permitted area in square feet of all signs per linear foot of street frontage" adjacent to street frontage providing legal, direct vehicular access onto the zoning lot.

TABLE OF AREAS (Table 5)
Maximum Permitted Areas for On-Site Ground or Pole Signs in "OW" District
Total Permitted Area

Type of Street	Maximum Area of Individual Sign in Square Feet	in Square Feet of All Signs per Lineal Foot of Street Frontage
Undesignated	50	.5
Collector	100	.5
Arterial	150	1
Expressway	150	1

(3) Height Limit. No ground or pole sign shall exceed a height of twenty (20) feet.

(4) Location on Property. On-site ground or pole signs shall not project over public right-of-way, and shall be located not closer to an adjacent property line than one-third (1/3) the frontage of the zoning lot or fifteen (15) feet, whichever is less. The centerline of an alley shall be considered an adjacent

property line. When more than one (1) ground or pole sign is permitted on a zoning lot, there shall be maintained a minimum horizontal distance between signs of one hundred fifty (150) feet along the same street frontage.

EXCEPTION: A sign located within fifty (50) feet of the intersection of two (2) streets on a corner lot may be placed so that it may face both directions of travel, such as a sign being erected on an angle. When this occurs, it shall be considered a sign adjacent to each street and one-half (1/2) of the sign area shall be charged against the total permitted sign area of each street frontage.

EXCEPTION: The Planning Administrator may vary these minimum horizontal distances up to thirty percent (30%) when circumstances related to the physical features of the zoning lot prevent the installation of the sign at the minimum horizontal distances. The reduction of these minimums shall in no way change the number of signs permitted on a zoning lot.

(b) Portable signs as set forth in Section 12A-410.

(c) Commercial balloon signs as set forth in Section 12A-409.

(d) Wall signs not exceeding one hundred fifty (150) square feet in area and thirty (30) feet in height above grade, and limited to one (1) per building elevation for each major use in the building; provided that the total amount of wall signage per building elevation shall be limited in total area to ten percent (10%) of the building elevation, or a total of three hundred (300) square feet, whichever is less. The building elevation to which any sign is to be attached shall have one of the following:

(1) Street frontage;

(2) Be adjacent to a nonresidential zoning district; or

(3) If adjacent to a residential zoning district, there must be a parking, loading or open space area with a depth of one hundred fifty (150) feet or more as measured from the sign face to the property line which adjoins the residential zoning district.

(e) Any sign permitted by this section shall be limited to direct or internal illumination of white light only. Signs shall not rotate or have flashing or moving images.

(f) For purposes of this section, “street frontage” shall be the linear feet of street frontage directly adjacent to an adjoining street or street right-of-way from which there is direct, legal vehicular access to the zoning lot. In determining street frontage, one-half (1/2) the width of an adjoining alley may be considered as frontage.

(g) Adjacent to Maize Road, 37th Street, 53rd Street, Tyler Road and 119th Street no pole signs shall be allowed. All signs on these designated arterials shall be monument type only, with maximum height, maximum size and location subject to conditions in Section 12A-509(a).

(h) Property in the “OW” district which is part of a Community Unit Plan, regardless of its location along any arterial as outlined in Section 12A-509(d), may have pole signs allowed if permitted by the Planning Commission and the City Council as a provision of the Community Unit Plan.

(Ord. 890)

ARTICLE 6. ENFORCEMENT AND LIENS

12A-601. AUTHORITY. The Planning Administrator and City Administrator are

authorized and directed to enforce all provisions of this article. (Ord. 890)

12A-602. RIGHT OF ENTRY. Whenever necessary to make an inspection to enforce any of the provisions of this article, or whenever the Planning Administrator has reasonable cause to believe that there exists upon any premises any condition or violation which makes such sign unsafe, dangerous or hazardous, the Planning Administrator may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Planning Administrator by this article. However, if such building or premises is occupied, he or she shall first present proper credentials and request entry; and if such building or premises is unoccupied, he or she shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If entry is refused, the Planning Administrator shall have recourse to every remedy provided by law to secure entry.

When the Planning Administrator has first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner, occupant or any other person having charge, care or control of any building or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the City, for the purpose of inspection and examination pursuant to this article. (Ord. 890)

12A-603. ENFORCEMENT PROCEDURES.

(a) Permanent signs. If the Planning Administrator finds that any sign is in violation of the provisions of this article with the exception of issues related to maintenance addressed in Section 12A-212 above and temporary signs and/or off-premises signs addressed in subsection (2) below, the Planning Administrator shall give written notice to the sign owner. If such person fails to repair, alter or remove the sign so as to comply with this article within thirty (30) days after service of such notice, or within such other time as is specified in this article or in such notice, the Planning Administrator may institute proceedings to enforce this article in a court of competent jurisdiction. In addition, the Planning Administrator may cause any sign not brought in compliance with this article after the service of the thirty (30) day notice described above to be repaired, altered or removed at the expense of the sign owner and the property owner and shall upon determination of such expense, certify the same to the City Clerk.

(b) Temporary and off-premises signs. If the Planning Administrator finds that a temporary sign or a sign located off-premises, including one located within a public right-of-way, is in violation of this article, the Planning Administrator may cause to remove the sign immediately without notice. If a temporary sign is removed by the City, the City shall impound the sign for a minimum of thirty (30) days and return the sign to the owner upon request after payment of a fee of fifty dollars ($50) is paid to the City.
(Ord. 890)

12A-604. LIEN COLLECTION. The City Clerk shall notify the sign owner or property owner of the total expenses incurred in the alteration or to pay the entire costs and expenses of such repair, alteration or removal, such expenses shall become a lien against and run with the property where the sign is located, and the City Clerk

shall certify the same to the County Appraiser for collection in the same manner as delinquent charges, assessments or taxes are collected pursuant to this Section 12A-604. (Ord. 890)

12A-605. AMOUNT OF LIEN. The amount certified by the City Clerk to the County Appraiser for collection shall include the actual cost of repair, alteration or removal of the sign, plus twenty-five percent (25%) to cover administrative costs, penalties, collection costs and interest. (Ord. 890)

12A-606. ADDITIONAL REMEDIES. The enforcement procedures established in this chapter are not the exclusive method of enforcement of the provisions of this article, but may be exercised concurrently with, or in addition to, the imposition of the penalties pursuant to this article, or other civil remedies available to the City pursuant to law. (Ord. 890)

12A-607. PENALTIES FOR VIOLATION OF CHAPTER, RULE OR ORDER.

(a) Any person violating any of the provisions of this chapter or any reasonable rule or order of the Planning Administrator, or causing, permitting or suffering the same to be done, is guilty of a misdemeanor and shall be punished by a fine of not more than five hundred dollars ($500) or by imprisonment of not more than six (6) months, or both such fine and imprisonment.

(b) The issuance or granting of a permit shall not be deemed or construed to be a permit for or an approval of any violation of any of the provisions of this chapter. No permit presuming to give authority to violate or cancel the provisions of this chapter shall be valid, except insofar as the work or use which it authorizes is lawful. (Ord. 890)

12A-608. SEVERABILITY. If any section or provision of this article is for any reason held illegal, invalid, or unconstitutional, such action shall not affect the remaining provisions of this chapter, which shall remain valid to the extent possible. (Ord. 890)

CHAPTER XIII. STREETS AND SIDEWALKS

ARTICLE 1. SIDEWALKS

13-101. DEFINITIONS. For purposes of this Chapter 13, the following words and terms shall be defined as follows:

(a) "City" means the City of Maize, Sedgwick County, Kansas.

(b) "City Clerk" means the City Clerk of the City.

(c) "City Engineer" means the City Engineer of the City.

(d) "Person" means individual(s), partnership(s), firm(s), corporation(s) or any other legal entity.

(e) "Public Works Director" means the public works director of the City.

(f) "Sidewalk(s)" means sidewalks, curbs, wheelchair ramps and driveway approaches that are located within the public rights-of-way within the City. (Ord. 712, Sec. 1)

13-102. PERMIT REQUIRED. It shall be unlawful to construct, reconstruct or repair any sidewalk until the plans first have been approved by the public works director and a permit issued for such work by the city clerk. A non-refundable application fee of Seventy Dollars ($70.00) shall be submitted to the city at the same time that plans for constructing, reconstructing or repairing a sidewalk are submitted. (Ord. 712, Sec. 1)

13-103. QUALIFICATIONS. Only persons who are licensed by the City of Wichita, Kansas, or who have equivalent licenses from other public entities (the public works director shall determine if a license from another public entity other than the City of Wichita, Kansas, is an equivalent license) are eligible to apply for and be issued a permit to construct, reconstruct or repair sidewalks. In addition, before obtaining a permit such person shall file with the city clerk of the city a surety bond in the amount of Five Thousand Dollars ($5,000.00), which shall be approved as to form by the city attorney. The condition of such bond shall be that the principal therein shall comply with all ordinances of the city relating to and regulating the construction of sidewalks and shall hold and save the city harmless from any and all damages to persons or property resulting from or growing out of any opening or excavation made, material stored or placed upon the public rights-of-way, or from any other action by the principal therein. (Ord. 712, Sec. 1)

13-104. SIDEWALK GRADE. All sidewalks constructed or reconstructed in the city shall be constructed on the established grade. When the governing body orders a sidewalk constructed as hereafter provided, the city shall pay the cost of bringing the street to grade for the sidewalk. Where no grade has been established, the

owner of abutting property may construct a sidewalk on the natural grade. If the grade has been established, the city clerk shall furnish the property owner with the official grade by reference to a stated distance above or below the street grade. (K.S.A. 12-1801, 12-1807; Ord. 712, Sec. 1)

13-105. SAME; SPECIFICATIONS. All sidewalks shall be constructed and laid in accordance with the city engineer's concrete specifications that are on file in the office of the city clerk as provided by K.S.A. 12-1802. (Ord. 712, Sec. 1)

13-106. PETITION. When a petition signed by no fewer than ten (10) citizens owning real estate in the city requesting construction of a sidewalk is filed with the city clerk, the governing body may in its discretion, by a resolution, order such sidewalk constructed as herein provided. (K.S.A. 12-1803; Ord. 712, Sec. 1)

13-107. SAME; CONDEMNATION, RECONSTRUCTION. When any sidewalk, in the opinion of the governing body, becomes inadequate or unsafe for travel thereon, the governing body may adopt a resolution condemning such sidewalk and providing for the construction of a new sidewalk in the place of the condemned sidewalk. (K.S.A. 12-1804; Ord. 712, Sec. 1)

13-108. NOTICE; PUBLICATION. The resolution providing for the construction or reconstruction of a sidewalk, as the case may be, shall give the owner of the abutting property not less than thirty (30) days nor more than sixty (60) days after its publication one time in the official city newspaper in which to construct or cause to be constructed or reconstructed the sidewalk at his or her own expense. If the sidewalk is not constructed by the property owner within the time specified, the governing body shall cause the work to be done by contract. (K.S.A. 12-1805; Ord. 712, Sec. 1)

13-109. RIGHT OF ABUTTING OWNER. Nothing in this article shall be construed to prohibit the owner of property abutting on a street, who desires to construct or reconstruct a sidewalk at his or her own expense and in accordance with Chapter 13, Article 1, without a petition or condemning resolution by the governing body, provided, however, such construction is done in conformance with this Article. If such property owner desires the sidewalk to be constructed and reconstructed by the city and an assessment levied as provided by law in other cases, he or she shall file a request with the governing body. The governing body, in its discretion, may provide for the construction or reconstruction of the sidewalk requested in the same manner as in other cases where citizens or taxpayers petition the governing body. (K.S.A. 12-1806; Ord. 712, Sec. 1)

13-110. REPAIRS BY OWNER OR CITY. It shall be the duty of the owner of the abutting property to keep the sidewalk in repair (such repair work shall be done in compliance with this article), but the city may, after giving five (5) days notice to the owner or his or her agent, if known, of the necessity for making repairs or without notice if the lot or piece of land is unoccupied, make all necessary repairs at any time. The same shall be done and the cost thereof assessed against the lot or piece of land abutting on the sidewalk so repaired as may be provided by law. (K.S.A. 12-1808; Ord. 712, Sec. 1)

13-111. OBSTRUCTING SIDEWALKS. It shall be unlawful for any person to build or construct any step or other obstruction, whether temporary or permanent, or to store, leave or allow to be left any implements, tools, merchandise, goods, containers, benches, display or show cases, on any sidewalks or other public ways in the city or to obstruct the same longer than is necessary for loading or unloading any such article or object. (Ord. 712, Sec. 1)

13-112. SAME; EXCEPTION. The governing body may authorize the granting of temporary permits in connection with a building or moving permit for limited times only to the owner of property abutting on any sidewalk to use or encumber such sidewalk or public way of the city during the construction of any building or improvement thereon. No permit shall be issued for such purpose until plans for warning and safeguarding the public during such use of sidewalks shall have been submitted by the owner or his or her contractor and approved by the governing body. (Ord. 712, Sec. 1)

13-113. PENALTY. It shall be unlawful for any person to construct, reconstruct or repair any sidewalk except as provided by this article. Any person convicted of a violation of any provision of this article shall be deemed guilty of a misdemeanor and shall be subject to a fine which shall be fixed by the court not to exceed Five Hundred Dollars ($500.00). (Ord. 712, Sec. 1)

13-114. INVALIDITY. Invalidity of any section, clause, sentence or provision of this article shall not affect the validity of any other part of this article which can be given effect without such invalid part or parts. (Ord. 712, Sec. 1)

ARTICLE 2. STREETS

13-201. EXCAVATION PERMIT. No person, other than authorized city employees, shall dig or excavate any hole, ditch, trench or tunnel in or under any street, alley, sidewalk, park or other public property or public easement through private property without first having secured a permit for such excavation. Application shall be made to the city clerk. (Code 2003)

13-202. SAME; BOND. (a) No permit authorized in this article shall be issued until the applicant has given to the city a good and sufficient bond in the sum of $5,000 conditioned that the applicant will faithfully comply with all the terms and conditions of this article, and will indemnify and hold the city harmless against all costs, expenses, damages and injuries by persons or by the city sustained by reason of the carelessness or negligence of the permit holder. No bond for this purpose shall run for longer than two years without being renewed. The bond shall remain in full force and effect as to each excavation for two years after the same has been made or completed.

(b) Any utility operating under a franchise or a contractor under contract with the city for municipal improvement shall not be required to give bond as provided in subsection (a).

(c) Each bond given under this section shall be approved by the city attorney and filed with the city clerk.
(Code 2003)

13-203. SAME; FILED. If the application is approved by the city, the city clerk shall issue a permit upon payment of a fee of $10. Each permit issued under the provisions of this section shall cover only one specified excavation. (Code 2003)

13-204. SAME; BARRICADES. Any person to whom an excavation permit is issued shall enclose all excavations which they make with sufficient barricades and danger signs at all times, and shall maintain sufficient warning lights or flares at nighttime. The holder of an excavation permit shall take all necessary precautions to guard the public against all accidents from the beginning of the work to the completion of the same. (Code 2003)

13-205. SAME; UNLAWFUL ACTS. It shall be unlawful for any person, except those having authority from the city or any officer thereof to throw down, interfere with or remove any barriers, barricades, or lights placed in any street to guard and warn the traveling public of any construction work thereon or adjacent thereto. (Code 2003)

13-206. CUTTING CURBS; PAVEMENT. (a) No person shall cut any curb, gutter, pavement, blacktop, sidewalk or excavate any street, alley or other public grounds of the city for any purpose without first obtaining a permit authorizing the same from the city clerk.

(b) Once the work for which the excavation was made has been completed the city shall restore the pavement, blacktop, sidewalk or other surfacing at the expense of the person from whom the excavation was made.

(c) In lieu of the city replacing pavement, it may elect to authorize utility companies or contractors to resurface streets or sidewalks with like materials, subject to approval of the street superintendent.
(Code 2003)

13-207. ALTERING DRAINAGE. No person shall change or alter any gutter, storm sewer, drain or drainage structure which has been constructed, or is being lawfully maintained or controlled by the city unless such change or alteration has been authorized or directed by the governing body. (Code 2003)

13-208. UNFINISHED PAVEMENT. No person shall walk upon, drive or ride over or across any pavement, sidewalk or incomplete grading which has not been opened for traffic. (Code 2003)

13-209. USING STREETS. (a) No person shall occupy any portion of any street, alley or sidewalk for the purpose of temporarily storing building materials without first obtaining a permit for such temporary use from the governing body.

(b) No person may use any portion of any sidewalk or street right-of-way for the purpose of displaying or offering for sale wares, goods, merchandise or other items. Nothing in this article, however, shall be construed as prohibiting the city governing body from temporarily waiving the prohibition of this subsection in connection with community promotions or community-wide celebrations when such waiver is considered to be in the best interest of the city.
(Code 2003)

13-210. DANGEROUS OBJECTS IN STREETS. It shall be unlawful for any person to place, throw or cause to be placed or thrown in or on any street, alley, sidewalk or other public grounds of the city, any glass, tacks, nails, bottles, wire or other dangerous objects that might wound any person or animal, or cut or puncture any pneumatic tire while passing over the same. (Code 2003)

13-211. PETROLEUM PRODUCTS IN STREETS. It shall be unlawful for any person, firm or corporation to deposit or throw any waste oil, fuel oil, kerosene, gasoline or other products of petroleum or any acids into or upon any street or public grounds of the city, or willfully to permit the same to be spilled, dripped or otherwise to come into contact with the surface of any street, alley, or sidewalk within the city. (Code 2003)

13-212. DISCHARGING WATER ON STREETS. It shall be unlawful for any person, firm or corporation to throw or discharge water other than storm water into any ditch, street, avenue or alley in the city or to cause any water to stand or form pools or to flow in a stream thereon. This section shall not apply to persons cleaning or flushing such streets, avenues or alleys under the authority of the governing body, nor to members of the fire department. (Code 2003)

13-213. BURNING IN STREETS. It shall be unlawful for any person to make or cause to be made, any fire upon any of the paved streets, alleys, or street intersections within the city. (Code 2003)

13-214. THROWING IN STREETS. It shall be unlawful to throw or bat any ball, stone, or other hard substance into, on or across any street or alley or at or against any building or vehicle. (Code 2003)

13-215. HAULING LOOSE MATERIAL. It shall be unlawful to haul over the streets or alleys of this city any loose material of any kind except in a vehicle so constructed or maintained as to prevent the splashing or spilling of any of the substances therein contained upon the streets or alleys. (Code 2003)

13-216. DRIVEWAY CONSTRUCTION. All driveways constructed on street right-of-way shall be a minimum of six inches in thickness throughout the entire width of the flat slab including that portion of the sidewalk section within the limits of the drive. Commercial and industrial use drives shall be constructed eight inches in thickness.

The maximum width of any one drive will be 30 feet at the right-of-way line with a maximum opening at the street curb for radius type drives of 52 feet.

Standard ramp type drives shall be constructed when the distance between the right-of-way line and the back of the street curb is 12 feet or less. Radius or radius-ramp type drives shall be constructed as determined by the inspector when the distance between the outside edge of the walk and the back of street curb is greater eight feet.

Commercial driveways shall be constructed with full radius wings unless otherwise approved by the inspector.

Commercial drive approaches require approved plot plans on the job site at all times. (Code 2003)

ARTICLE 3. TREES AND SHRUBS

13-301. DEFINITIONS. (a) Street Trees — Trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the city.

(b) Park and Tree Board — means the Park and Tree Board to the governing body of the City of Maize, Kansas, that was created at Section 1-901 of the Code of the City of Maize, Kansas.

(c) Park Trees — Trees, shrubs, bushes, and all other woody vegetation in public parks having individual names, and all areas owned by the city, or to which the public has free access as a park.

(d) City Trees — Trees, shrubs, bushes and all other woody vegetation located on city-owned property that is not a park and is not a street right-of-way.

(e) Tree Size — Large trees are herein defined as those attaining height of 40 feet or more. Medium trees are defined as those attaining a height of 20 feet to 40 feet. Small trees are defined as those attaining a normal maximum height of 20 feet.

(f) City — the City of Maize, Kansas.

(g) City Administrator — The City Administrator of the City of Maize, Kansas.

(Ord. 832)

13-302. DUTIES AND RESPONSIBILITIES OF THE BOARD. It shall be the responsibility of the Park and Tree Board to study, investigate, counsel, develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of Street Trees, Park Trees, and City Trees. A tree inventory prepared by the Sedgwick County Extension Agency shall serve as the guide for removal or disposition of trees.

Such a plan will be presented annually to the governing body for their approval.

It shall be the duty of the Park and Tree Board to promote the education and awareness of the citizens in the area of tree lore. The Park and Tree Board, at its discretion, shall work independently and/or with whatever educational organizations it deems appropriate for the purpose of assisting the dissemination of information on tree planting, tree problems, tree care and maintenance, and its long range plans and vision for the local city forest.

The Park and Tree Board will be available for consultation to any private citizen with regard to any aspect that might affect the city forest.

In its activities and duties related to Street Trees and Park Trees, the Park and Tree Board shall endeavor to cooperate and consult with other organizations within the City which may at times have an interest in matters pertaining to the city forest.

The Park and Tree Board, when requested by the City Administrator, shall consider, investigate, make finding report and recommend to the governing body upon any special matter of questions coming within the scope of its work.

(Ord. 832)

13-303. STREET TREE SPECIES TO BE PLANTED. The Park and Tree Board shall maintain a list of recommended trees for planting in public areas. This list shall be

available to residents of the City upon request to aid in the selection of trees for private properties. The list of recommended trees shall be updated periodically to reflect new developments or species that will affect the population of the community forest.
(Ord. 832)

13-304. DISTANCE FROM CORNERS. No Street Tree shall be planted in the street right-of-way closer than 35 feet to any intersection of the street with any other street, alley, avenue, lane, private or public driveway measured from the point of nearest intersecting curbs or curb lines.
(Ord. 832)

13-305. UTILITIES. Only small trees, as defined in section 13-301(3) may be planted under or within 10 lateral feet of any overhead utility wire, or over or within five lateral feet of any sewer line, transmission line or other utility or public improvements.
(Ord. 832)

13-306. PUBLIC TREE CARE. The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure safety when servicing city utilities or to preserve the symmetry and beauty of such public grounds. The City may remove or cause or order to be removed any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, or other utility or public improvements, or is affected with any injurious fungus, insect or other pest. (Ord. 832)

13-307. TREE TOPPING. It shall be unlawful as a normal practice for any person, firm or City department to top any Street Tree, Park Tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this article at the determination of the city. (Ord. 832)

13-308. CLEARANCES OVER STREETS AND WALKWAYS. Every property owner of every house, building lot or premises in the City shall keep the trees situated on such property and in the parking abutting such property trimmed so that the branches over all public right-of-way, alleys, sidewalks and driveways shall not be lower than 12 feet from the surface of such right-of-way, alley, sidewalk or driveway, and that such hedges shall not be higher than three feet, so as to constitute a traffic hazard. (Ord. 832)

13-309. DEAD OR DISEASED TREE REMOVAL. The City shall have the right to cause the removal of any dead or diseased trees on private property within the City, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the city. (Ord. 832)

13-310. NOTICE TO OWNERS; CHARGES. Whenever any property owner of record whose duty it is to keep any shrubs, hedges or trees trimmed or cut as provided for in this article shall fail to do so, the City Clerk shall notify in writing the property owners of record requiring the same to be done forthwith. Removal shall be done by the property owners at their own expense within 30 days after the date of service of notice. In the event of failure to comply within the time provided by the notice, such shrubs, hedges or trees may be trimmed by the city at a minimum hourly cost of $100 per hour to be charged to the property owner. The owner named in the notice will be given an opportunity to pay the assessment. If the charge remains unpaid after 30 days from the billing date, the actual charges will be certified by the City Clerk to the county clerk and collected as other general property taxes are collected. (Ord. 832)

13-311. INTERFERENCE WITH THE PARK AND TREE BOARD. It shall be unlawful for any person to prevent, delay or interfere with the City or any of its representatives or agents while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any tree within the community forest, as authorized by this article. (Ord. 832)

13-312. ARBORISTS BOND. It shall be unlawful for any person or firm to engage in the business or occupation of trimming, pruning, treating, or removing Street or Park Trees within the City without first filing with the City Clerk evidence of liability insurance in the minimum amounts of $500,000 for bodily injury and $500,000 for property damage indemnifying the City or any person injured or damaged resulting from the pursuit of such endeavors as herein described. (Ord. 832)

13-313. REVIEW BY GOVERNING BODY. The governing body shall have the right to review the conduct, acts and decisions of the Park and Tree Board.

Any person may appeal from any ruling or order of the City to the governing body who may hear the matter and make final decisions. (Ord. 832)

13-314. PENALTY. Any person violating any provision of this article shall be, upon conviction or a plea of guilty, subject to a fine not to exceed $500. (Ord. 832)

13-315. REPEALED. (Ord. 832, Sec. 2)

13-316. REPEALED. (Ord. 832, Sec. 2)

13-317. REPEALED. (Ord. 832, Sec. 2)

13-318. REPEALED. (Ord. 832, Sec. 2)

ARTICLE 4. SNOW AND ICE

13-401. SNOW AND ICE TO BE REMOVED. (a) It shall be unlawful for the owner and/or the occupant of any lots abutting upon any sidewalks to fail to cause to be removed from such sidewalks all snow and ice within 12 hours from the time that the snow fall or ice storm ceases. If the snow falls or ice accumulates upon the sidewalks in the nighttime, removal of same must be made within 12 hours after sunrise on the following day.

(b) It shall be unlawful for any person to place snow removed from private property upon any public street, alley or sidewalk.
(Code 2003)

13-402. SAME: EXCEPTION; ALTERNATE REMEDY. Where there shall be ice or compacted snow on any such sidewalk of such a character as to make it practically impossible to remove the same, the sprinkling of ashes, sand or other noncorrosive chemicals on the accumulation of ice or snow in such a manner as to make such sidewalk reasonably safe for pedestrian travel shall be deemed a sufficient compliance with the provisions of this article until the ice or snow can be removed. (Code 2003)

13-403. SAME; PENALTY. That any person violating the provisions of section 13-401 shall, upon conviction, be fined $25. (Code 2003)

13-404. REMOVAL MAY BE MADE BY CITY. If any owner or occupant of any lot or lots shall refuse or neglect to clean or remove from the sidewalk abutting the lot or lots all snow and ice within the time specified, the city may cause such snow and ice to be removed from sidewalks and the cost thereof shall be assessed against such abutting lot or lots, and the city clerk shall certify the same to the county clerk for collection as provided by law. (Code 2003)

13-405. COSTS ON TAX ROLLS. The city clerk shall, at the time of certifying other city taxes to the county clerk, certify the unpaid costs for removal of snow or ice performed under the authority of section 13-404 and the county clerk shall extend the same on the tax roll of the county against the lot or parcel of ground. The cost of such work shall be paid from the general fund or other proper fund of the city, and such fund shall be reimbursed when payments therefor are received or when such assessments are collected and received by the city. (Code 2003)

ARTICLE 5. PUBLIC RIGHT-OF WAY

13-501. DEFINITIONS. (a) "City" means the City of Maize, Kansas.

(b) "Public right-of-way" means the area of real property which the City has a dedicated or acquired right-of way interest in the real property. It includes the area on, below or above the present and future streets, alleys, avenues, roads, highways, parkways or boulevards dedicated or acquired as right-of-way. The term does not include the airwaves above a right-of-way with regard to wireless telecommunications or other nonwire telecommunications or broadcast service, easements obtained by utilities or private easements in platted subdivisions or tracts.

(c) "Occupant" means any person, firm, corporation, association, utility, or entity, which enters upon the right-of-way of the City, or in any manner establishes a physical presence on, upon, in or over the right-of-way of the City, for the purpose of installing, construction, maintaining or operating lines, conduits, wires, fiber optic wires, cables, pipes, pipelines, poles, towers, vaults or appliances, or related facilities or appurtenances thereto. (Ord. 629)

13-502. AUTHORIZATION FROM CITY REQUIRED. (a) No person, firm, corporation, association, utility, or entity, shall enter upon the right-of-way of the City, or in any manner establish a physical presence on, upon, in or over the right-of way of the City, for the purpose of installing, constructions, maintaining or operating lines, conduits, wires, fiber optic wires, cables, pipes, pipelines, poles, towers, vaults or appliances, or related facilities or appurtenances thereto, without the express written permission of the City. The permission of the City may be granted by a franchise agreement pursuant to the provisions of K.S.A. 12-2001 *et seq.* or by such other agreement as the governing body determines best protects the public interest in the right-of-way.

(b) Nothing in this ordinance shall be interpreted as granting an occupant the authority to construct, maintain, or operate any facility or related appurtenance on property owned by a City outside of the public right-of-way.

(c) Once permission is granted to occupy the City public right-of-way by franchise or other agreement, the occupant shall obtain a construction permit before setting fixtures in the right-of-way and shall obtain an excavation permit before making a street or pavement cut in the public right-of-way. Such permits shall be issued by the City Administrator or designee.

(d) The City shall process valid and administratively complete applications for construction permits and excavation permits for use of the public right-of-way within 30 days. (Ord. 629)

13-503. HEALTH, SAFETY, AND WELFARE REGULATIONS. The authority of a provider to use and occupy the public right-of-way shall always be subject and subordinate to the reasonable public health, safety and welfare requirements and regulations of the City. (Ord. 629)

13-504. CONTROL DEVICES. Any occupant of the public right-of-way shall comply with the provisions of the Standards and Guides for Traffic Controls for Streets and Highway Construction, Maintenance, Utility, and Incidental Management Operations Part IV of the Manual of Uniform Traffic Control Devices (MUTCD), published by the U.S. Department of Transportation, Federal Highway Administrations, 1988 Edition, Revision 3, dated September 3, 1993, which is incorporated by reference as if fully set forth herein. (Ord. 629)

13-505. EMERGENCIES. If there is an emergency necessitating response work or repair, any person, firm, corporation, association, utility, or entity which has been granted permission to occupy the right-of-way may begin that repair or emergency response work or take any action required under the circumstances, provided that person, firm, corporation, association, utility, or entity notifies the City promptly after beginning the work and timely thereafter meets any permit or other requirement had there not been such an emergency. (Ord. 629)

13-506. REPAIR. Any occupant of the public right-of-way is hereby required to repair all damage to a public right-of-way caused by the activities of that occupant, or of any agent affiliate, employee, or subcontractor of that occupant, while occupying, installing, repairing or maintaining facilities in a public right-of-way and to return the right-of-way, to its functional equivalence before the damage pursuant to the reasonable requirements and specifications of the City. If the occupant fails to

make the repairs required by the City, the City may affect those repairs and charge the occupant the cost of those repairs. (See 13-508(b)). (Ord. 629)

13-507. RELOCATION. Whenever requested by the City, in order to accomplish construction and maintenance activities directly related to improvements for the health, safety and welfare of the public, an occupant promptly shall remove its facilities from the public right-of-way or shall relocate or adjust its facilities within the public right-of-way at no cost to the City. Such relocation or adjustment shall be completed as soon as reasonably possible within the time set forth in any request by the City for relocation or adjustment. Any damages suffered by the City or its contractors as a result of such occupant's failure to timely relocate or adjust its facilities shall be borne by such occupant. (Ord. 629)

13-508. FEES. (a) The City, by resolution adopted by the City Council and as amended from time to time, shall set the following fees for use and occupancy of the public right of way. Such fees shall reimburse the City for the reasonable, actual and verifiable costs of managing the City's right-of-way and shall be imposed on all occupants of the public right-of-way in a nondiscriminatory and competitively neutral manner, to wit:

(1) A permit fee in connection with issuing each construction permit to set fixtures in the public right-of-way within the City as provided by K.S.A. 17-1901, and amendments thereto, to compensate the City for issuing, processing and verifying the permit application.

(2) An excavation fee for each street or pavement cut to recover the costs associated with construction and repair activities of the occupant, their assigns, contractors and/or subcontractors, except when such involves related repair activities due pursuant to Section 13-507 herein; provided, however, imposition of such excavation fee must be based upon a regional specific or other appropriate study that establishes the basis for such costs which taken into account the life of the City street prior to the construction or repair activities and the remaining life of the City street thereafter. Such excavation fee is limited to activities that result in actual street or pavement cost.

(3) An inspection fee to recover all reasonable costs associated with City inspection of the work of the occupant in the public right-of-way.

(b) In addition, the City shall assess an occupant fee to recover from the occupant the cost of repairing the public right-of-way because of damages caused by the occupant, its assigns, contractors, and/or subcontractors in the use of the City public right-of-way that is not repaired by the occupant in a reasonable time period.

(c) Occupants shall furnish the City proof, in a form acceptable to the City, from a surety licensed to conduct business in the State of Kansas, of a performance bond in an amount equal to the estimated cost of the project the permit is being sought for that insures appropriate and timely performance of the construction and maintenance of facilities located in the City public right-of-way as part of the City issuing a construction permit and/or excavation permit for an occupant to do work in the City public right-of-way. (Ord. 629)

13-509. INDEMNITY. (a) Occupants shall indemnify and hold the City and its officers and employees harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees (including reasonable attorney fees and costs of defense),

proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including personal or bodily injury (including death), property damage or other harm for which recovery of damages is sought, to the extent that it is found by a court of competent jurisdiction to be caused by the negligence of the occupant, any agent, officer, director, representative, employee, affiliate or subcontractor of the provider, or their respective officers, agents, employees, directors or representatives, while installing, repairing or maintaining facilities in a public right-of-way.

(b) The indemnity provided by this subsection does not apply to any liability resulting from the negligence of the City, its officers, employees, contractors or subcontractors. If an occupant and the City are found jointly liable by a court of competent jurisdiction, liability shall be apportioned comparatively in accordance with the laws of the state without, however, waiving any governmental immunity available to the City under state law and without waiving any defenses of the parties under state or federal law.

(c) This section is solely for the benefit of the City and occupant and does not create or grant any rights, contractual or otherwise, to any other person or entity. (Ord. 629)

13-510. CLAIM NOTIFICATION. An occupant shall promptly advise the other in writing of any known claim or demand against the provider or the City related to or arising out of the occupant's activities in a public right-of-way. (Ord. 629)

13-511. PENALTY PROVISION. Any person, firm, corporation, association, utility, or entity, or agent, contractor or subcontractor thereof, violating any provision of this Article 5 of Chapter XIII, shall be guilty of a municipal offense, and shall upon conviction be subject to a maximum fine of $500.00. Each day of violation shall constitute a separate and distinct offense. (Ord. 629)

ARTICLE 6. MINOR STREET PRIVILEGE & MINOR USE PRIVILEGE.

13-601. DEFINITIONS. The following words and phrases, when used in this Article, shall, for the purposes of this Article, have the meanings respectively ascribed to them in this Article:

(a) ***Minor street privilege*** means any authorized or permitted private right in, on, under or over public streets, alleys or ways, separate and distinct from the general public use of streets, alleys and ways. As used in this Article the term shall not apply to the short-time use of public space in connection with building construction nor shall it apply to a public utility operating under a franchise granted by the city.

(b) ***Minor use privilege*** means any authorized or permitted private right in, on, under or over dedications or easements acquired for drainage purposes, separate and distinct from the general public use of easements acquired for drainage purposes.

(c) ***Permittee*** means a person in possession of a minor street privilege. The term shall include the grantee of a minor street privilege who, in such grant, shall be the owner or lessee of the private property abutting the encroachment, the

homeowners association which includes the owner or owners of the private property abutting the encroachment, or the owner of nearby land.

13-602. SUBJECT TO REGULATION AND PERMITS AS CONTAINED IN THE ARTICLE. The enjoyment and use of minor street and minor use privileges by the permittee for private purposes, as hereinafter set forth in this Article, shall be subject to regulations and permits as set forth in the Article.

13-603. PERMITS FOR NEW PRIVILEGES; APPLICATION. Application for any new minor street or minor use privileges shall be submitted to the director of public works by letter with appropriate drawings, plans or photographs attached and shall be submitted on forms furnished by the City. The application shall be made by the owner or lessee of abutting land, the homeowners association which includes the owner or owners of the private property abutting the public right-of-way requested for use, or the owner of nearby land, provided that a minor street or minor use privilege permit issued to a lessee shall in no event extend beyond the termination date of the lease under which said abutting property is being leased and provided further, that said minor street or minor use privilege permit shall be automatically canceled if the lessee's lease is terminated prior to the termination date set forth in the permit.

13-604. SAME; APPROVAL OF APPLICATION; ISSUANCE. On approval of the application for a minor street privilege referred to in the preceding section by the director of public works or on approval of the application for a minor use privilege referred to in the preceding section by the director of public works, and upon payment of the required fee, a permit shall be issued by the director of public works.

13-605. EXISTING MINOR STREET PRIVILEGES AND MINOR USE PRIVILEGES. The director of public works shall make a list of all existing minor street privileges and minor use privileges and the persons or entities in possession. Minor street privileges and minor use privileges existing before August _____, 2016, are grandfathered from the requirement of paying permit fees and yearly renewal fees.

13-606. MISCELLANEOUS. The Director of Public Works shall have the authority and discretion with or without reason to terminate a minor street privilege or a minor use privilege at any time. Minor use privilege and minor street privilege permits shall be subject to renewal on a yearly basis and the payment of a yearly fee as set by the Director of Public Works. Yearly fees must be paid on or before January 31 of each year. Minor street privilege and minor use privilege will be automatically terminated if the yearly fee remains unpaid after January 31 of each year. In addition, the Director of Public Works shall establish a fee schedule that sets fees that are required to be paid before a minor street privilege or a minor use privilege is issued. The permit holder of a minor street privilege or minor street use shall, upon the termination of a minor street privilege or minor street use, restore the premises the privilege occupied to an equal or better conditions than existed before the privilege was granted. The City Administrator and City Public Works Director shall establish and enforce reasonable rules and regulations to govern the carrying out of the provisions of this article of the city code.

CHAPTER XIV. TRAFFIC

ARTICLE 1. STANDARD TRAFFIC ORDINANCE

14-101. INCORPORATING STANDARD TRAFFIC ORDINANCE. There is hereby incorporated by reference for the purpose of regulating traffic within the corporate limits of the City of Maize, Kansas, that certain standard traffic ordinance known as the "Standard Traffic Ordinance for Kansas Cities," Edition of 2017 (the "Standard Traffic Ordinance"), prepared and published in book form by the League of Kansas Municipalities, save and except such articles, sections, parts or portions as are hereafter modified or changed. No less than one copy of the Standard Traffic Ordinance shall be marked or stamped "Official Copy as Adopted by Ordinance No. 946 of the City of Maize, Kansas," with all sections or portions thereof intended to be changed clearly marked to show any such 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. (Ord. 946, Sec. 1)

14-102. SECTION 33(a) MAXIMUM SPEEDS. STANDARD TRAFFIC ORDINANCE, EDITION OF 2018, ("Standard Traffic Ordinance") MODIFIED. Section 33(a) Maximum Speeds, Standard Traffic Ordinance, is amended and modified to read: Except as provided in subsection (b) of Section 33 of the Standard Traffic Ordinance, and except when a special hazard exists that requires lower speed for compliance with K.S.A. 8-1557, and amendments thereto, the speed limits specified in this Section 14-102(a) of the Code of the City of Maize, Kansas, will be the maximum lawful speeds, and no person shall operate a vehicle at a speed in excess of the maximum limits specified in this Section 14-102(a):

(1) Thirty (30) miles per hour on all streets in the City limits other than those listed in this section (a), (2) through (9);

(2) Twenty (20) miles per hour on all streets as specified in Section 14-203 of the Code of the City;

(3) Fifty-five (55) miles per hour on 61st Street North from the east City limits to the west City limits;

(4) Fifty-five (55) miles per hour on 53rd Street North from the east City limits to one-half (1/2) mile west of Tyler Road;

(5) Forty (40) miles per hour on 53rd Street North from one-half (1/2) mile west of Tyler Road to three-fourths (3/4) mile west of Maize Road;

(6) Forty-five (45) miles per hour on 53rd Street North from three-fourths (3/4) mile west of Maize Road to one-half (1/2) mile west of 119th Street West;

(7) Fifty-five (55) miles per hour on 53rd Street North from one-half (1/2) mile west of 119th Street West to the west City limits;

(8) Fifty-five (55) miles per hour on 45th Street North from the east City limits to Maize Road;

(9) Forty (40) miles per hour on 45th Street North from Maize Road to 119th Street West;

(10) Fifty-five (55) miles per hour on 45th Street North from 119th Street West to the west City limits;

(11) Forty (40) miles per hour on 37th Street North from the east City limits to 119th Street West;

(12) Fifty-five (55) miles per hour on 37th Street North from 119th Street West to the west City limits;

(13) Forty (40) miles per hour on Tyler Road from the south City limits to Candlewood Street;

(14) Forty-five (45) miles per hour on Tyler Road from Candlewood Street to the north City limits;

(15) Forty-five (45) miles per hour on Maize Road from the south City limits to Hampton Lakes Road;

(16) Forty (40) miles per hour on Maize Road from Hampton Lakes Road to the westbound on-ramp to Highway K-96;

(17) Forty-five (45) miles per hour on Maize Road from the westbound on-ramp to Highway K-96 to 61st Street North;

(18) Fifty-five (55) miles per hour on Maize Road from 61st Street North to the north City limits;

(19) Fifty-five (55) miles per hour on 119th Street West from 29th Street North to 45th Street North;

(20) Forty-five (45) miles per hour on 119th Street West from 45th Street North to 53rd Street North;

(21) Fifty-five (55) miles per hour on 119th Street West from 53rd Street North to the north City limits;

(22) Fifty-five (55) miles per hour on 135th Street West from the south City limits to the north City limits;

(23) The maximum speed limits as established in this Section 14-102 and in Section 14-203 are based on an engineering and traffic investigation performed by the City Engineer and determined by the Governing Body of the City to be reasonable and safe under the conditions found to exist on streets and highways in the City, and the Governing Body declares that the maximum speeds for streets and highways as specified in this Section 14-102 and Section 14-203 of the Code of the City are reasonable and safe maximum limits. (Ord. 946, Sec. 2)

14-103. Repealed. (Ord. 776)

14-104. Repealed. (Ord. 904)

14-105. Repealed. (Ord. 904)

14-106. Repealed. (Ord. 935)

ARTICLE 2. LOCAL TRAFFIC REGULATIONS

14-201. Repealed.

14-202. CARELESS DRIVING. (a) No person shall operate or halt a vehicle in such 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, including the person or property of the driver or his or her passenger or passengers. Any driver who does so shall be considered to be in prima facie violation of this section.

(b) No driver while driving shall engage in any activity which interferes with the driver's safe control of his or her vehicle.

(c) No person shall engage in any activity or commit any act which interferes with a driver's safe operation of a vehicle. (Ord. 710, Sec. 1)

14-203. SCHOOL ZONES. (a) BOUNDARIES AND MAXIMUM SPEED LIMITS. A maximum speed limit of twenty (20) mph is established at any location where school zone signs are posted or where a combination of school zone signs and flashing lights are used.

(b) SAME; DAYS AND HOURS OF OPERATION.

(1) The school zones established in section 14-203(a) shall be in operation and in force during any day officially established as a normal school day by the Maize School District, U.S.D. 266.

(2) The hours of operation of such school zones shall be:

a) as posted on each school zone sign;

b) while flashing lights are in operation if so equipped;

c) the hours of operation of school zones during any day officially established as a summer school school day by the Maize School District, U.S.D. 266, shall be from 7:30 a.m. to 1:30 p.m.

(c) SAME; POSTING OFFICIAL SIGNS. The maximum speed limits in a school zone, established by or pursuant to sections 14:203(a) and (b) above shall be effective only when official traffic control devices or signs are posted giving notice of such maximum speed limit. (Ord. 710, Sec. 1)

14-204. SAME; ADDITIONS. Safety Patrol Drivers' Obedience to Signals Required, When Speed Limitation.

(a) The mayor shall empower the principals of public or private schools to designate students or other person 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 mayor may deem advisable.

(b) Where 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 sings, signals or other warning devices are used shall bring the vehicle which he or she is driving to a complete stop when the signs, signals or warning devices are being waved, 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.
(Ord. 529, Sec. 4)

14-205. ILLEGAL PARKING OF TRUCKS IN RESIDENTIAL AREAS. (a) It is unlawful for any person to park a truck with a manufacturer's rated capacity of one and one-half (1½) tons or over, or a bus, truck tractor, road tractor, farm tractor,

recreational vehicle, truck trailer or semi-trailer on any street in a residential district, for longer than two (2) hours, except when it is necessary for the loading and unloading of merchandise. The police department may grant permission to extend the time allowed for loading and unloading.

(b) Whenever any police officer finds a vehicle in violation of subsection (a), such officer is hereby authorized to move or cause to be moved such vehicle, or require the driver or other person in charge of the vehicle to move the same, to a position of safety off the street or highway.

(c) In any proceeding for the violation of this section, the registration plate displayed upon the vehicle in violation shall constitute in evidence prima facie presumption that the owner of such vehicle was the person who parked or placed such vehicle at the place where the violation occurred. (Ord. 710, Sec. 1)

14-206. LOUD SOUND AMPLIFICATION SYSTEMS PROHIBITED. (a) No person operating or occupying a motor vehicle on a street, highway, public property, or private property 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 fifty (50) or more feet from the vehicle.

(b) Sound amplification system means any radio, tape player, compact disc player, loudspeaker, or other electronic device used for the amplification of sound.

(c) Plainly audible means any sound produced by a sound amplification system from within the vehicle, which clearly can be heard at a distance of fifty (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) Affirmative defense. 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 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 gas, electric, communications or refuse company;

(4) The system was used for the purpose of giving instructions, directions, talks, addresses, lectures or transmitting music to any person 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) For the purpose of this Section 14-206, public property means property owned or leased by city, school board, recreation commission, park board or other public entity. (Ord. 710, Sec. 1)

14-207. PENALTY. (a) It is unlawful for any person to violate any provisions of this Chapter 14.

(b) An ordinance traffic infraction is a violation of any section of this Chapter 14 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.

(c) All traffic violations which are included within this Chapter 14 and which are not ordinance traffic infractions as defined in subsection (a) of this Section 14-207, shall be considered traffic offenses.

(d) The fine for violation of ordinance traffic infractions or any other traffic offense for which the municipal judge establishes a fine schedule shall not be less than Ten Dollars ($10.00) nor more than Five Hundred Dollars ($500.00). A person tried and convicted for a violation for which a fine has been established in a schedule of fines shall pay a fine fixed by the court not to exceed Five Hundred Dollars ($500.00).

(e) Every person convicted of violation of any of the provisions of this Chapter 14 for which another penalty is not provided by this Chapter 14 or by the schedule of fines established by the judge of the municipal court shall be punished for first conviction thereof by a fine of not more than Five Hundred Dollars ($500.00) or by imprisonment for not more than one month, or by both such fine and imprisonment; for a second such conviction within one (1) year thereafter, such person shall be punished by a fine of not more than One Thousand Dollars ($1,000.00) or by imprisonment for not more than six (6) months, or by both such fine and imprisonment; upon a third or subsequent conviction within one (1) year after the first conviction, such person shall be punished by a fine of not more than Two Thousand Five Hundred Dollars ($2,500.00) or by imprisonment for not more than one (1) year, or by both such fine and imprisonment. (K.S.A. 8-2216; K.S.A. 21-4503a; Ord. 776).

14-208. Repealed.

14-209. Repealed

14-210. Repealed

14-211. Repealed.

14-212. Repealed.

14-213. SAFETY PATROL DRIVERS' OBEDIENCE TO SIGNALS REQUIRED; WHEN SPEED LIMITATION. (a) The mayor 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 mayor 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 or she is driving to a complete stop when the signs, signals or warning devices are being waved, 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.
(Ord. 553, Sec. 2)

ARTICLE 3. ABANDONED MOTOR VEHICLES ON PUBLIC PROPERTY

14-301. DEFINITIONS. For the purpose of this article, the following terms, phrases, words and their derivations shall have the following meanings:

(a) Highway. The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel. Where the word "highway" or the word "street" is used in this article, it means street, avenue, boulevard, thoroughfare, alley, and other public way for vehicular travel by whatever name, unless the context clearly indicates otherwise.

(b) Motor Vehicle. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively on stationary rails or tracks.

(c) Owner or Occupant. A party having fee simple title in the real property, or a party having a leasehold interest in the real property, or a party who is the beneficiary of a private easement for the purpose of egress or ingress to or from said real property.
(Code 2003)

14-302. IMPOUNDING VEHICLES. The police department may cause to be impounded:

(a) Any motor vehicle unlawfully parked on a highway in violation of any provision of a city ordinance which prohibits the parking of vehicles at the place where or time when the impounded motor vehicle is found.

(b) Any motor vehicle that has been abandoned and left on a highway or other property open to use by the public for a period in excess of 48 hours pursuant to K.S.A. 8-1102.

(c) Any vehicle which interferes with public highway operations.

(d) Any motor vehicle which:

(1) Is subject to removal pursuant to K.S.A. 8-1570, or 8-1102, or

(2) Is subject to seizure and forfeiture under the laws of the state, or

(3) Is subject to being held for use as evidence in a criminal trial.

(e) Any motor vehicle, the continued presence of which, because of the physical location or condition of the motor vehicle, poses a danger to the public safety or to the motor vehicle.

(f) Any motor vehicle which has been abandoned or parked on any real property, other than public property or property open to use by the public, may be moved and disposed of in accordance with the terms of this article by the police department upon the request of the owner or occupant of such real property. The real property referred to herein shall not be owned or leased by the person who abandons or parks said vehicle or by the owner or lessee of such vehicle. The city or any person, partnership, corporation or their agent conducting a business enterprise for the purpose of towing vehicles which removes such vehicle from the real property at the request of the police department shall have a possessory lien on such vehicle for the cost incurred in removing, towing and storing such vehicle. For purposes of this article, common areas shall be construed not to mean public property or property open to the public. (Code 2003)

14-303. SAME. The police department may authorize storage of such impounded motor vehicles at any location, public or private, which is zoned for the storage of motor vehicles. (Code 2003)

14-304. NOTICE OF IMPOUNDMENT; STORAGE OF VEHICLE. (a) When Owner Present. When the police department intends to impound a motor vehicle pursuant to section 14-302 and the owner of the motor vehicle is then present, the police department shall before the motor vehicle is removed, provide the owner with a notice, in the form prescribed by the police department that the motor vehicle is being impounded, that towing and storage charges will be assessed against the impounded motor vehicle, that the owner may claim and regain possession of the impounded motor vehicle at the location to which it is being removed for storage without prepayment of towing and storage charges and that the owner may request a hearing as to the propriety of the impoundment and as to the amount of and the owner's liability for the towing and storage charges. The notice shall also state the location where the impounded motor vehicle will be stored and the place where the owner may make his or her request for the hearing. The notice shall also state, in prominent language, that failure by the owner to request a hearing within five days after receipt of the notice may act as a waiver of his or her right to a hearing and that this may result in the placing of a lien against the motor vehicle for the towing and storage charges without further notice to the owner; and that the motor vehicle be sold at public auction to the highest bidder for cash after 15 days from the date of the mailing of the notice. The owner of the impounded motor vehicle shall sign the notice as an acknowledgment that he or she has received a copy of the notice and a copy of the notice shall be provided to the owner.

(b) When Owner not Present. When the police department impounds and removes a motor vehicle pursuant to section 14-302(a) and the owner of the motor vehicle is not present at the time of the impoundment, the police department shall, if such motor vehicle has displayed thereon a registration plate issued by the division of vehicles and has been registered with said division, mail a notice by certified mail to the registered owner thereof, addressed to the address as shown on the certificate of registration, and to the lienholder, if any, of record in the county in which the title shows the owner resides, if registered in this state. The notice shall be in the form prescribed by the police department containing the same information as required by section 14-304(a). The police department shall use reasonable diligence in determining the title owner, or if from a non-title state, the registered owner, of the vehicle, and shall inquire by mail of the office of the register of deeds of the county in which the title shows the owner resides, if registered in this state, as to whether there are any lienholders of record. If the owner cannot be served by certified mail at the address on the motor vehicle registration and there is no other known address of the owner, the owner shall be deemed to be a resident of the state whose whereabouts are unknown and service shall be made on the Secretary of State as provided in K.S.A. 8-401.

If the owner does not reside in the state, as appears from the motor vehicle registration and the owner cannot be served by certified mail at the address on the motor vehicle registration and there is no other known address of the owner, the owner shall be deemed a nonresident of the state and service shall be made on the Secretary of State as provided in K.S.A. 8-401.

(c) Failure or Refusal to Sign Notice. If any person required by this section to sign a notice of impoundment willfully fails or refuses to do so, or if such person cannot be found, the police department shall note this fact on the face of the notice, which shall constitute prima facie evidence of delivery or service of notice as required by this section.

(Code 2003)

14-305. IMPOUNDMENT AFTER REQUEST TO LEAVE MOTOR VEHICLE. In all cases wherein the owner or operator of a motor vehicle which is on a public street has requested that the motor vehicle be left unattended at that location, in lieu of impoundment of the motor vehicle pursuant to section 14-302, the police department may honor said request for a period of time not exceeding 24 hours, after which time the motor vehicle shall either be removed from the location by the owner or operator or be impounded by the police department pursuant to section 14-304. The police department shall be immune from liability for any damage, loss or destruction of the motor vehicle occasioned by its being left unattended pursuant to the request of the owner or operator thereof, in lieu of impoundment. Nothing in this section shall be construed to limit the authority of the police department to order the removal of a motor vehicle by its owner or operator or to impound a motor vehicle pursuant to section 14-304 at any time whenever in his or her judgment the presence of the unattended motor vehicle constitutes a danger to the public safety. (Code 2003)

14-306. RELEASE OF MOTOR VEHICLE FROM IMPOUNDMENT. (a) Generally. Unless the vehicle is impounded pursuant to section 14-302(b) herein, the owner of an impounded motor vehicle may secure the release of the motor vehicle from impoundment upon requesting such release and presenting proof of ownership satisfactory to the custodian of the place where the motor vehicle is stored. If the custodian is satisfied that the person making the request is the owner or his or her authorized agent, he or she shall release the motor vehicle to the owner or his or her agent. Nothing in the preceding sentence shall preclude the owner of the impounded motor vehicle or his or her agent from paying any towing and storage charges that may be assessed against the motor vehicle, but neither the police department nor the custodian of the storage space may require payment of any towing or storage charges as a condition precedent to such release. At the same time as the owner or his or her agent requests release of the impounded motor vehicle, and if such request is made with 40 days after the owner receives a copy of the notice of impoundment, the police department shall provide him or her an opportunity to make a request for a hearing on the propriety of the impoundment and on the amount and his or her liability for the towing and storage charges occasioned by the impoundment; provided, that if the owner or his or her agent requests release of the impounded motor vehicle more than 40 days after the owner receives a copy of the notice of impoundment, no hearing may be requested on the impoundment or on the towing and storage charges and the owner shall be conclusively presumed to have consented to the impoundment and to the amount of and his or her liability for the towing and storage charges.

(b) Security for Payment of Charges. If the ownership of the impounded motor vehicle is evidenced by a title certificate issued by the Kansas Department of Highway Safety and Motor Vehicles, the owner or his or her agent may secure the release of the motor vehicle from impoundment without the payment of any towing or storage charges or the deposit of any security for the payment thereof. If the ownership of the impounded motor vehicle is evidenced by a foreign title instrument, or if the jurisdiction in which title is recorded is not evidenced from the document establishing ownership, the owner or his or her agent, before the custodian of the place where the motor vehicle is stored authorizes release of the motor vehicle form impoundment, shall deposit with the custodian cash in the amount of the towing and storage charges to the date of the request. If the owner or his or her agent refuses to provide the cash deposit, the custodian shall not

authorize release of the impounded motor vehicle but if the request is timely made, a date shall be set for the hearing on the impoundment and charges. (Code 2003)

14-307. HEARING. If the owner of an impounded motor vehicle or his or her agent timely requests the release of the motor vehicle from impoundment and a hearing on the impoundment and charges, as provided in section 14-306, a date shall be set, not more than five days after the date of request, for the hearing. The city attorney shall provide a hearing examiner to conduct the hearings required by this section. At the hearing, the owner, his or her agent, or his or her attorney shall be afforded an opportunity to present, by oral testimony or documentary evidence, his or her objections to (a) the impoundment of the motor vehicle and (b) (1) the amount of the towing and storage charges and (2) his or her liability for the payment thereof. If the owner or his or her agent requested the hearing more than five days but not more than 40 days after the owner received a copy of the notice of impoundment, the owner, his or her agent or his or her attorney shall be required at the hearing, as a condition precedent to the presentation of any objections by the owner, to show good cause for the delay in making the request more than five days after the owner received a copy of the notice of impoundment: if good cause cannot be shown, the hearing officer shall dismiss the hearing and make the finding stated in subsection (b) below; otherwise, the hearing examiner shall proceed to hear the owner's objections. At the conclusion of the hearing on the owner's objections, the hearing examiner shall render his or her decision if the hearing examiner:

(a) Finds that the impoundment was improper, he or she shall:

(1) Find that the owner is not liable for any towing or storage charges occasioned by the impoundment and

(2) Determine whether and to what extent the city shall be the expense of the towing and storage charges; or

(b) Finds that the impoundment was proper, he or she shall establish:

(1) The amount of the towing and storage charges to be assessed against the impounded motor vehicle and

(2) The extent of the liability of the owner for payment of the towing and storage charges so established. The decision of the hearing examiner shall be final, and a copy of the decision shall be furnished to the owner of the impounded motor vehicle, to the custodian of the place where the motor vehicle is stored and to the city attorney.

In the event that the impoundment was pursuant to K.S.A. 8-1102(b), the owner or occupant of the real property upon which the abandoned vehicle was located shall not be assessed the costs of towing and storage of the vehicle. Further, nothing within this article shall be construed to modify or effect the validity of the possessory lien of the person removing such vehicle from the real property established by K.S.A. 8-1102(b). (Code 2003)

14-308. CHARGES CONSTITUTE A LIEN. The towing and storage charges occasioned by the impoundment of a motor vehicle pursuant to section 14-302 shall be and constitute a lien upon the impounded motor vehicle, except as provided in this section. If the hearing examiner finds pursuant to section 14-307 that the impoundment was improper and if he or she determines that the city shall bear part or all of the towing and storage charges, the lien created by this section shall be discharged. If the hearing examiner finds pursuant to section 14-306 that the impoundment was proper but that the towing and storage charges should be in

an amount less than the amount of the lien, the lien created by this section shall be discharged to the extent that it exceeds the amount established by the hearing examiner. The holder of a lien created by this section may perfect such lien in any manner provided by law, but he or she may not retain possession of the motor vehicle when it has been released pursuant to section 14-306(a). In the event that the impounded motor vehicle is released from impoundment and the owner or his or her agent has provided security for payment of charges as required by section 14-306(b), the lien created by this section shall also be a lien against the security so provided, subject to being wholly or partially discharged as provided in this section. (Code 2003)

14-309. SATISFACTION OF LIEN; NOTICE OF PUBLIC SALE. The holder of a lien against a motor vehicle created by section 14-308, to the extent that such lien has not been discharged as provided in section 14-308 or otherwise satisfied, may enforce such lien in any manner provided by law after 60 days from the date the motor vehicle is impounded by the police department. If the owner of the motor vehicle or his or her agent has provided security for the payment of the lien as provided in section 14-306(b), the lien shall first be satisfied out of the security so provided and, if any portion of the lien remains unsatisfied and undischarged, may then be enforced in any manner provided by law. If the motor vehicle against which the lien is created pursuant to section 14-308 is still under impoundment 60 days from the date it is impounded by the police department and the owner has not requested release of the motor vehicle from impoundment nor paid the towing and storage charges that are the basis for the lien, the motor vehicle shall be sold at public sale to the highest and best bidder for cash to satisfy the lien. Notice of the sale shall be given in accordance with K.S.A. 8-1102. Publication, required by K.S.A. 8-1102, may be made before the termination of the 60 day period for a sale thereafter. (Code 2003)

14-310. REDEMPTION. If the city is to conduct the sale:

(a) Any holder of a recorded lien or retained title on a motor vehicle to be sold by the city under the provisions of section 14-309 may claim and take possession thereof, upon payment of accrued charges and estimated costs of publication of the notice of sale to the police department and the deposit with the police department of sufficient assurance by surety bond or otherwise, approved by the city attorney, that the motor vehicle will be forthcoming for public sale thereof or upon claim of the rightful owner prior to the sale. The police department shall, within three days, make a report to the city treasurer and deliver the charges and costs so paid to the city treasurer, taking a receipt therefor and filing it, together with a duplicate copy of the report to the city treasurer, with the records in his or her office. The funds shall be held in a trust account until final disposition of the motor vehicle. Not less than five days before the date for sale of the motor vehicle, the police department shall notify the lienholder or retained titleholder of the time and place for the sale, and the lienholder or retained titleholder shall deliver such motor vehicle to the police department at or before 12:00 noon of the day before the sale. At the sale the amount paid shall be credited on the bid of the lienholder or retained titleholder. If the lienholder or retained titleholder is the successful bidder for the motor vehicle, the police department shall report this fact to the city treasurer and then the funds previously paid by the lienholder or retained titleholder shall be relieved of the trust previously impressed and become the same as other funds received by the city for storage and costs of impounded motor vehicles. If the motor vehicle is sold for a higher bid to any person other than

the lienholder or retained titleholder, the police department shall report this fact to the city treasurer and the lienholder or retained titleholder shall be refunded the amount previously paid by him out of the trust account.

(b) And if the rightful owner of the motor vehicle claims the same before the sale by payment of the accrued charges, the police department shall immediately notify the lienholder or retained titleholder in possession of the motor vehicle and he or she shall return the same to the police department within 12 hours. The police department shall report this redemption by the rightful owner to the city treasurer and the lienholder or retained titleholder shall be refunded the amount previously paid by him or her out of the trust account.
(Code 2003)

14-311. SALE PROCEEDS. The proceeds of a public sale held pursuant to section 14-308 whether such sale was conducted by the city or by any other person, after payment of the towing and storage charges and costs and expenses incident to the sale, shall be deposited with the city treasurer, if the owner of the motor vehicle is absent from the sale, for credit to the trust account. The funds deposited in the trust account pursuant to this section shall remain in the account subject to the order of the person legally entitled thereto, but if no claim is made for these funds within a period of one year after the sale, the funds shall become the property of the city, be released from the trust account and be paid into the general fund as miscellaneous revenues. (Code 2003)

14-312. STATUTORY PROCEDURES. Nothing in this article shall be construed to augment, diminish, supersede or otherwise interfere with any statutory procedure established by the legislature for the collection of unpaid towing and storage charges. The procedures in this article are supplementary and cumulative to any statutory procedures. (Code 2003)

14-313. IMPLEMENTATION OF ARTICLE. The police department and city treasurer are authorized to make rules for the implementation and administration of this article. (Code 2003)

14-314. REIMBURSEMENT FOR DISCHARGED LIENS. If a lien created by section 14-308 and held by a private wrecker or towing firm is discharged by section 14-308 pursuant to a determination by a hearing examiner that an impoundment was improper and that the city shall bear part or all of the towing and storage charges, the city shall pay to the firm the amount determined by the hearing examiner. No payment shall be made until it is authorized by the city attorney. (Code 2003)

ARTICLE 4. HAZARDOUS MATERIALS

14-401. HAZARDOUS MATERIAL DEFINED. As used in this article, the term hazardous material shall mean any material or combination of materials which, because of its quantity, concentration, or physical, chemical, biological, or infectious characteristics, poses a substantial present or potential hazard to human health or safety or the environment if released into the workplace or environment or when improperly treated, stored, transported, or disposed of or otherwise managed. (Code 2003)

14-402. SAME; EXCEPTIONS. The provisions of this article shall not apply to any container which shall have a capacity of 150 gallons or less which shall be used for

the purpose of supplying fuel for the vehicle on which it is mounted. These provisions shall also not apply to vehicles, trailers, containers or tanks containing anhydrous ammonia or other material primarily used by farmers for fertilizer purposes when such vehicles, trailers, containers or tanks are parked or housed upon property designated for the placement of such vehicle, trailer, container or tank by any farmers cooperative, elevator company or farm supply store located within the city limits. (Code 2003)

14-403. TRANSPORTATION OF HAZARDOUS MATERIALS. Except as provided in section 14-404 it shall be unlawful for any person, firm, corporation or other entity to transport any hazardous material upon any street, avenue, highway, road, alley or any other public right-of-way in the city. (Code 2003)

14-404. HAZARDOUS MATERIALS ROUTES. The provisions of section 14-403 shall apply to all streets, avenues, highways, roadways, alleys or other public right-of-ways within the city except those specified within this section where transportation of hazardous materials shall be allowed. Transportation of hazardous materials shall be allowed upon the following streets, avenues, highways or roadways:

(a) (Reserved)
(b) (Reserved)
(c) (Reserved)

(Code 2003)

14-405. PARKING OF VEHICLES OR TRAILERS CARRYING HAZARDOUS MATERIALS. (a) Except as provided in subsections (b) and (c), it shall be unlawful for any person, firm, corporation or other entity to park any vehicle, trailer or semi-trailer carrying any hazardous material within any of the following city zoning districts as defined in Chapter 16 of this code:

(1) (Reserved)

(b) Subsection (a) shall not apply to vehicles, trailers or semi-trailers parked for continuous periods of time not to exceed one hour where such vehicles, trailers or semi-trailers are parked along those routes specified in section 14-404 of this code.

(c) Subsection (a) shall not apply to any vehicle, trailer or semi-trailer carrying any hazardous material where such vehicle, trailer or semi-trailer is not parked within 500 feet of any structure used for human habitation.

(Code 2003)

14-406. REMOVAL OF ILLEGALLY PARKED TRAILERS. If any vehicle, trailer or a semi-trailer is found parked in violation of the provisions of this article, the fire chief or assistant chief or any law enforcement officer may require the owner, operator or lessee of the trailer to move it within two hours. If such removal is not accomplished on the order of any such officer, it may be accomplished by any such officer, by any reasonable means, if the continued presence of the trailer or semi-trailer at its parked location constitutes, adds to or prevents correction of a situation threatening imminent injury or damage to persons or property. (Code 2003)

CHAPTER XV. UTILITIES

ARTICLE 1. GENERAL PROVISIONS

15-101. DEFINITION. For purposes of this article utility services shall include water, sewer, and other utility services provided by the city. (Code 2003)

15-102. DELINQUENT ACCOUNTS. Unless otherwise provided, water, sewer, or other utility service shall be terminated for nonpayment of service fees or charges in accordance with sections 15-103:104. (Code 2003)

15-103. NOTICE; HEARING. (a) If a utility bill has not been paid on or before the due date as provided in this chapter, a delinquency and termination notice shall be issued by the city clerk within five days after the delinquency occurs and mailed to the customer at his or her last known address. A copy also shall be mailed to the occupant of the premises if the occupant and the customer are not the same person.

(b) The notice shall state:

(1) The amount due, plus delinquency charge;

(2) Notice that service will be terminated if the amount due is not paid within 10 days from the date of the notice unless the date on the notice to pay the charges due shall be on a Saturday, Sunday or legal holiday, in which event such notice will give the consumer until the close of the next business day in which to pay the charges;

(3) Notice that the customer has the right to a hearing before the designated hearing officer;

(4) Notice that the request for a hearing must be in writing and filed with the city clerk no later than three days prior to the date for termination of service.

(c) Upon receipt of a request for hearing, the city clerk shall advise the customer of the date, time and place of the hearing which shall be held within three working days following receipt of the request. (Code 2003)

15-104. SAME; FINDING. Following the hearing, if the hearing officer shall find that service should not be terminated, then notice of such finding shall be presented to the city clerk. If the officer finds that service should be terminated, an order shall be issued terminating service five days after the date of the order. The customer shall be notified either in person or by mailing a letter to his or her last known address by certified mail, return receipt requested. However, if the order is made at the hearing in the presence of the customer, then no further notice need be given. The hearing officer has a right, for good cause, to grant an extension, not to exceed 10 days, for the termination of such service. (Code 2003)

15-105. REPEALED. (Ord. 652)

15-106. REPEALED. (Ord. 652)

15-107. PETTY CASH FUND. A petty cash fund in the amount of $1,000 is established for the use of the city utilities department, for the purpose of paying postage, freight, temporary labor, and other emergency expenses, including refund of deposits made to secure payment of accounts. (Code 2003)

15-108. SAME; DEPOSITS. The petty cash fund shall be deposited in the regular depository bank of the city and paid out on the order of the city clerk by check which shall state clearly the purpose for which issued. (Code 2003)

15-109. SAME; VOUCHERS. Whenever the petty cash fund becomes low or depleted, the city clerk shall prepare vouchers covering expenses as have been paid from the petty cash fund and shall submit such vouchers together with the paid checks to the governing body for review and allowance of the amounts from the regular funds of the utilities. Warrants issued therefor shall be payable to the petty cash fund and shall be deposited therein to restore said petty cash fund to its original amount. (Code 2003)

15-110 STATE DEBT COLLECTION FEE. Whenever the City refers the collection of a delinquent water and/or sewer bill for collection by the State of Kansas pursuant to authority granted to the State of Kansas under K.S.A. 75-6201 *et seq.* and amendments thereto, the bill referred to the State shall contain an additional collection fee that does not exceed the amount that the State of Kansas will charge the City for collecting the delinquent water and/or sewer bill. The actual amount of the additional collection fee shall be established by motions of the governing body. (Ord. 632)

ARTICLE 2. WATER

15-201. CREATION. A municipal water system to serve the domestic water needs of the citizens of the city and surrounding areas is hereby created and in connection with the operation of the municipal water system, there is hereby created a water utility department to be staffed with personnel at the discretion of the city. (Ord. 565, Sec. 1)

15-202. REGULATIONS. The furnishing of water to customers by the city through the municipal water system shall be governed by the regulations set out in this article. (Ord. 565, Sec. 2)

15-203. MAINTAINING CONNECTIONS TO THE MUNICIPAL WATER SYSTEM REQUIRED. (a) It shall be unlawful for the owner of premises located within the City when the premises abut a street, alley or right-of-way in which public water lines are located, to fail at the owner's expense to connect to the public water line within thirty (30) days from the date such owner receives notice from the City that a public water line that abuts the premises of the owner is available to be connected to.

(b) An owner or other person authorized by the owner shall, before connecting to the public water line, make an application for such that includes the following information to the City Administrator or designee:

(1) An exact description including street address of the property to be served;

(2) The size of tap required;

(3) The size and kind of service pipe to be used;

(4) The full name of the owner of the premises to be served;

(5) The purpose for which the water is to be used;

(6) Any other pertinent information required by the City Administrator;

(c) Each application for a connection permit shall be accompanied by payment of fees and/or costs specified in Section 15-205. (Ord. 643)

15-204. CITY TO MAKE CONNECTIONS. All taps shall be given, street excavations made, corporation cocks inserted, pipes installed from main to curb, and the curb cock installed in a meter box to which the service pipe is to be connected by authorized city representatives only. (Ord. 565, Sec. 4)

15-205. CONNECTION FEES. No one shall tap or hook onto or into the City water lines without first applying for water service from the City of Maize, Kansas.

(a) The following connection fees are established. These fees will apply to service connections (all users per connection) made upon application to tap or hook into the City water lines:

(1) 3/4-inch or smaller meter – $1,000.

(2) 1-inch meter – $1,300.

(3) Meters larger than 1-inch shall be assessed a minimum fee of $1,900. If the cost of meter, equipment and installation is more than the minimum, the fee will be the cost of the meter, equipment and installation plus a 5% servicing fee.

(b) In addition, a plant equity fee in the following amount shall be assessed to all users per connection. This fee shall be assessed upon application to tap or hook into the City water lines:

(1) ¾-inch or smaller meter - $1,100

(2) 1-inch meter - $1,500

(3) 1 ½-inch meter - $2,100

(4) 2-inch meter - $2,600

(5) 3-inch meter - $3,600

(6) 4-inch meter - $5,100

(7) 6-inch meter - $7,600

(8) meters larger than 6-inch shall be assessed a fee of $11,000.

(Ord. 883)

15-206. CURB COCKS. There shall be a curb cock in every service line attached to the city main, the same to be placed within the meter box. Curb cocks shall be supplied with strong and suitable T handles. (Ord. 565, Sec. 6)

15-207. CHECK VALVES. Check valves are required on all connections to steam boilers or on any other connection deemed necessary by the water superintendent. Safety and relief valves shall be placed on all boilers or other steam apparatus connected with the water system where the steam pressure may be raised in excess of 40 pounds per square inch. (Ord. 565, Sec. 7)

15-208. UNAUTHORIZED SERVICE. It shall be unlawful for any person, firm, or corporation, other than duly authorized city officials or employees to turn water on or off at the water meter or curb cock shut off, with a key or in any other manner,

without first obtaining written permission from the mayor or the governing body. (Ord. 565, Sec. 8)

15-209. METERS. (a) All water furnished to customers shall be metered.

(b) Meters shall be located between the sidewalk or property line and curbing when the main is in the street, and on private property within three feet of any alley line when the main is in the alley.

(c) The city's responsibility stops at the meter. (Ord. 565, Sec. 9)

15-210. SAME; TESTING. Meters shall be tested before being set and at any other time thereafter when they appear to be measuring incorrectly. If a test is requested by the customer and the meter is found to be accurate within two percent, the meter will be deemed correct and a charge of $10 will be made to the customer. (Ord. 565, Sec. 10)

15-211. TAMPERING WITH METER. It shall be unlawful for any person to break the seal of any meter, to alter the register or mechanism of any meter, or to make any outlet or connection in any manner so that water supplied by the city may be used or wasted without being metered. It shall be unlawful for any person except an authorized employee of the water department to turn any curb cock on or off. (Ord. 565, Sec. 11)

15-212. LEAKS PROHIBITED; PENALTY. No allowances shall be made for water used or lost through leaks, carelessness, negligent or otherwise after the same has passed through the meter. However, every customer shall have the right to appeal to the city from water bill or meter reading that he or she may consider excessive. (Ord. 565, Sec. 12)

15-213. DISCONNECTION, RECONNECTION CHARGE. Any service disconnection for nonpayment of delinquent bill shall be reconnected only upon payment of the delinquent bill, interest penalty thereon, and a reconnection fee of Fifty Dollars ($50.00). (Ord. 685, Sec. 2)

15-214. UTILITY DEPOSIT. At the time of making application for water service, the property owner or customer shall make a cash deposit in the amount and manner specified in section 15-203 to secure payment of accrued bills or bills due on discontinuance of service. (Ord. 565, Sec. 14)

15-215. INTERRUPT SERVICE. The city reserves the right to interrupt water service for the purpose of making repairs or extensions to water lines or equipment. (Ord. 565, Sec. 15)

15-216. PROHIBITED ACTS. It shall be a violation of this article for any unauthorized person to:

(a) Perform any work upon the pipes or appurtenances of the city's waterworks system beyond a private property line unless such person is employed by the city.

(b) Make any connections with any extension of the supply pipes of any consumer without written permission to do so having been first obtained from the governing body.

(c) Remove, handle, or otherwise molest or disturb any meter, meter lid, cutoff, or any other appurtenances to the water system of the city.
(Ord. 565, Sec. 16)

15-217. WASTING WATER. Water users shall prevent unnecessary waste of water and shall keep sprinklers, hydrants, faucets and all apparatus, including the service line leading from the property to the meter in good condition at their expense. (Ord. 565, Sec. 17)

15-218. RIGHT OF ACCESS. Authorized employees of the city may enter upon an premises at reasonable hours for the purpose of reading the meter or servicing or inspecting meters or water lines. (Ord. 565, Sec. 18)

15-219. RATES FOR CUSTOMERS. (a) Definitions. For purposes of this section, the following phrases shall have the meaning set forth as follows:

(1) "Billing Period" means from the first day of a month to the last day of the month.

(2) "Base Rate" means a minimum charge per Billing Period that is charged residences, businesses and other entities that have availability of the City's water system during any part of a Billing Period.

(3) "City" means the City of Maize, Kansas.

(b) Rates for Customers Inside the City Limits of the City.

(1) Water service charges per Billing Period shall be assessed to residences, businesses, Educational Institutions, Higher Education Institutions, Industrial Users and other entities located within the City limits of the City that have water service availability at any time during a Billing Period at the rates set forth below. A residence, business, Educational Institution, Higher Education Institution, Industrial User or other entity is deemed to have water service availability if the City's municipal water system is available during any part of the Billing Period to be connected or is connected to the City's municipal water system. PROVIDED, HOWEVER, residences, businesses, educational institutions, higher education institutions, industrial users and other entities that have never been connected to the City's municipal water system shall not be deemed to be available to be connected to the City's municipal water system until thirty (30) calendar days after the City has provided the Owner and/or occupant of such property written notice that such property is available to be connected to the City's municipal water system.

The Base Rate is to be applied whether or not any water volume passes from the City's municipal water system to the private water system during a Billing Period.

(2) The residence, multi-family residence, business, higher education institution, industrial or other entity, except Educational Institutions beginning January 1, 2015, will pay a base rate that will be adjusted on an annual basis as set forth in Table 1 below. The base rate per Billing period, adjusted annually, is set forth in Table 1 below.

(3) In addition to the base rate charges, residence, multi-family residence, business, higher education institutions, industrial or other entity, except Educational Institutions will pay an additional charge based on gallons of water used per Billing Period that exceed 2,999 gallons. The charges for usage of water that exceeds 2,999 gallons will be adjusted on an annual basis as set forth in Table 1 below. The additional per Billing Period charges for usage of water that exceeds 2,999 gallons, adjusted annually, are set forth in Table 1 below.

Table 1: Water User Rates – 2015 to 2019

Effective Date	Base Rate	Rate/1,000 Gallons For 3,000 to 5,000	Rate/1,000 Gallons For 6,000 to 70,000	Rate/1,000 Gallons For 71,000 to 220,000	Rate/1,000 Gallons For 221,000 and more gallons used
January 1, 2015	Up to 2-inch meter $25.50 2-inch up to 4-inch meter $50.25 4-inch up to 6-inch meter $60.25 6-inch meter and above $70.25	$ 3.41	$ 6.57	$3.41	$2.00
January 1, 2016	Up to 2-inch meter $25.75 2-inch up to 4-inch meter $50.50 4-inch up to 6-inch meter $60.50 6-inch meter and above $70.50	$ 3.66	$ 6.82	$ 3.66	$2.50
January 1, 2017	Up to 2-inch meter $26.00 2-inch up to 4-inch meter $50.75 4-inch up to 6-inch meter $60.75 6-inch meter and above $70.75	$ 3.91	$ 7.07	$ 3.91	$3.00
January 1, 2018	Up to 2-inch meter $26.25 2-inch up to 4-inch meter $51.00 4-inch up to 6-inch meter $61.00 6-inch meter and above $71.00	$ 4.16	$ 7.32	$ 4.16	$3.50
January 1, 2019	Up to 2-inch meter $26.50 2-inch up to 4-inch meter $51.25 4-inch up to 6-inch meter $61.25 6-inch meter and above $71.25	$ 4.41	$ 7.57	$ 4.41	$ 4.00

(4) Multi-family residential complexes located within the corporate limits of the City shall be charged one Base Rate per Billing Period per meter. Every unit in a multi-family complex shall have a separate meter when every unit in the complex has a ground floor. When a multi-family complex has more than one story, and individual residential units can be accessed from common areas on floors other than the ground floor, the entire multi-story complex or entire buildings within the complex may be served by one meter. Each multi-family residential unit, occupied multi-family residential unit and non-occupied multi-family residential unit that is available for water service shall pay the Base Rate on a per residence basis.

All new applications for water service for multi-family residential units shall be metered according to the criteria described above.

(c) Educational Institutions.

(1) "Educational Institution" shall mean any public or private school building or group of buildings that provide a preschool through twelfth grade education and that receive water through one meter.

(2) For the purpose of this section (c), the following terms shall have meanings as set forth below:

a. "SBP" shall mean the school building population, including students and employees of a public school building.

b. “20” shall represent the average gallons per capita day usage by the SBP, based on national averages.

c. “2.5” shall represent the average household size in the City.

d. “130” shall represent the average gallons per capita day anticipated usage by a typical resident, based on national averages.

e. “0.75” shall represent the portion of the year in which the public school building is in operation in relation to the yearly water usage of a residence in the City. For purposes of this Section 15-219, the Educational Institution is anticipated to be in operation for nine (9) months each year.

(3) For purposes of determining the minimum water service charge per public school building, the City billing minimums shall be based on the household equivalent. For purposes herein, household equivalent is the ratio of total gallons of water demand by an Educational Institution to the average gallons per capita day water demand by residential users of the City’s water system. The household equivalent of each Educational Institution shall be calculated in accordance with the following formula:

Step 1:

$$\text{Unadjusted Household Equivalent} = \frac{\text{SBP} \times 20}{130}$$

Step 2:

$$\text{Household Equivalent} = \frac{\text{Unadjusted Household Equivalent} \times 0.75}{2.5}$$

(4) The minimum water usage for each Educational Institution shall be determined by taking the household equivalent for each Educational Institution times 2,000 gallons. The minimum water service charge for each public school building is the household equivalent times the base rate of $25.25.

(5) Usage above the minimum water usage for each household equivalent in each Educational Institution shall be charged at the rates shown in Section 1(e)(2)(b), (c), (d) or (e) herein, based upon water usage.

(d) Rates for Customers Outside the City Limits of the City.

(1) Residences, businesses, educational institutions, higher education institutions, industrial users and other entities serviced by the City’s municipal water system at locations outside the corporate limits of the City shall pay a Base Rate equal to 150% of the minimum charge paid by customers within the City limits of the City.

(2) Additional charges for water usage fees for every 1,000 gallons used per Billing Period shall be charged at the same rate as paid by residences, businesses, educational institutions, higher education institutions, industrial users, and other entities within the City.

(e) The meter readings made by the City shall be rounded down to the nearest thousand.

(f) The minimum water service charge will not be assessed if improvements that are being served or are available to be served are removed from the property. (Ord. 880)

15-220. DELINQUENT ACCOUNTS; NOTICE; HEARING; FINDING; LIABILITY. Water service shall be terminated for nonpayment of service fees or charges as provided in section 15-213. (Ord. 565, Sec. 20)

15-221. USE DURING FIRE. No person owning or occupying premises connected to the municipal water system shall use or allow to be used during a fire any water from the water system except for the purpose of extinguishing the fire. Upon the sounding of a fire alarm it shall be the duty of every such person to see that all water services are tightly closed and that no water is used except in extraordinary cases of emergency during the fire. (Ord. 565, Sec. 21)

15-222. CROSS-CONNECTION PROHIBITED. No person shall establish or permit to be established or maintain or permit to be maintained, any cross connection whereby a private, auxiliary, or emergency water supply other than the regular public water supply of the city may enter the supply and distributing system of the city unless specifically approved by the Kansas Department of Health and Environment and the governing body. (Ord. 565, Sec. 22)

15-223. SAME; PROTECTIVE BACKFLOW DEVICES REQUIRED. Approved devices to protect against backflow or backsiphonage shall be installed at all fixtures and equipment where backflow and/or backsiphonage may occur and where there is a hazard to the potable water supply in that polluted water or other contaminating materials may enter into the public water supply. Any situation in which a heavy withdrawal of water, such as a sudden break in the main or water being used from a fire hydrant, may cause a negative pressure to develop which could lead to backsiphonage or polluted water into the system shall be improper and must be protected by approved backflow preventive valves and systems as determined by the superintendent. (Ord. 565, Sec. 23)

15-224. SAME; INSPECTION. The city utility superintendent or other designee of the governing body shall have the right of entry into any building or premises in the city as frequently as necessary in his or her judgment in order to ensure that plumbing has been installed in accordance with the laws of the city so as to prevent the possibility of pollution of the water supply of the city. (Ord. 565, Sec. 24)

15-225. SAME; PROTECTION FROM CONTAMINANTS. Pursuant to the city's constitutional home rule authority and K.S.A. 65-163a, the city by its utility superintendent may refuse to deliver water through pipes and mains to any premises where a condition exists which might lead to the contamination of the public water supply system and it may continue to refuse the delivery of water to the premises until that condition is remedied. In addition, the city utility superintendent may terminate water service to any property where the cross connections or backsiphonage condition creates, in the judgement of the superintendent, an emergency danger of contamination to the public water supply. (Ord. 565, Sec. 25)

15-226. SEVERABILITY. If any provision of this Chapter 15, Article 2, is declared invalid or unconstitutional, or the application thereof to any person or circumstance is held invalid, the constitutionality of the remainder of this Chapter 15, Article 2, and the application thereof to other persons and circumstances shall not be affected thereby.

ARTICLE 3. ELECTRICITY

(Reserved)

ARTICLE 4. SEWERS

15-400. CREATION. The City of Maize, Kansas (the "City") governing body does hereby establish and create a wastewater treatment utility and in connection therewith declares its intention to be responsible for the operation, construction, maintenance and repair of the wastewater treatment utility. (Ord. 728, Sec. 1)

15-401. DEFINITIONS. Unless the context clearly indicates otherwise, the meaning of words and terms as used in this article shall be as follows:

(a) Building Drain shall mean 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 outside the innerface of the building wall.

(b) Building Sewer shall mean the extension from the building drain to the public sewer or other place of disposal.

(c) B.O.D. (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees centigrade, expressed in parts per million by weight.

(d) PH shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

(e) Individual Domestic means any single family residence, commercial business, office, institution, school, church or public entity having an individual direct or indirect connection to the wastewater facilities of the city and on individual city or private water service meter, or connection to any such water service.

(f) Industrial means any industrial business engaged in the manufacturing or processing of one or more products, and in which wastewaters are produced from such manufacturing or processing and said wastewaters are discharged directly or indirectly to the wastewater facilities of the city.

(g) Multi-domestic means any multi-family residence, apartment or mobile home and any commercial business, office, institution, school, church or public entity having a direct or indirect connection to the wastewater facilities of the city and not having an individual water service meter but is served with city or private metered water by the owner of the property on which it is located.

(h) Superintendent shall mean the superintendent of the city or his or her authorized deputy, agent or representative.

(i) Sewage shall mean a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface, and storm waters as may be present.

(j) Sewer shall mean a pipe or conduit for carrying sewage.

(k) Public Sewer shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

(l) Combined Sewers shall mean sewers receiving both surface runoff and sewage, are not permitted.

(m) Sanitary Sewer shall mean a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.

(n) Storm Sewer or Storm Drain shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and polluted industrial wastes.

(o) Sewage Treatment Plant shall mean any arrangement of devices and structures used for treating sewage.

(p) Suspended Solids shall mean solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

(q) User means any person as defined in section 1-102, including an institution, governmental agency or political subdivision producing wastewater requiring processing and treatment to remove pollutants and having premises connected to the wastewater facilities.

(r) Wastewater means sewage, the combination of liquids and water carried wastes from residences, commercial and industrial buildings, institutions, governmental agencies, together with any ground, surface or storm water that may be present.

(s) Normal wastewater. The strength of normal wastewater shall be considered within the following ranges:

(1) A five day biochemical oxygen demand of 300 milligrams per liter or less;

(2) A suspended solid concentration of 350 milligrams or less;

(3) Hydrogen ion concentration of 5.0 to 9.0. (Ord. 118; Code 2003)

15-402. SEWER CONNECTION REQUIRED. The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purpose, situated within the city and abutting on any street, alley, or right- of-way in which there is now located or may in the future be located a public sanitary sewer of the city, is hereby required at his or her expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this article, within 90 days after date of official notice to do so, provided that said public sewer is within 140 feet of the property line. (Ord. 118, Sec. 307; Code 2003)

15-403. (Reserved)

15-404. APPLICATION. Any person desiring to make a connection to the city sewer system shall apply in writing to the city clerk who shall forward the application to the utility superintendent. The application shall contain:

(a) The legal description of the property to be connected;

(b) The name and address of the owner or owners of the property;

(c) The kind of property to be connected (residential, commercial or industrial);

(d) The point of proposed connection to the city sewer line. (Code 2003)

15-405. COSTS. All costs and expense incident to the installation and connection of the building sewer shall be paid 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. (Code 2003)

15-406. SEWER CONNECTION. The connection of the building sewer into the public sewer shall be made at the "Y" branch if such branch is available at a suitable location. Where no properly located "Y" branch is available, the connection shall be made in the manner approved by the utility superintendent and at a location designated by the superintendent. (Code 2003)

15-407. SEWER FOR EACH BUILDING. 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 feasibly constructed to the rear building. In such case, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer. (Code 2003)

15-408(1). SAME; SPECIFICATIONS. The building sewer shall be constructed of cast iron pipe, ASTM specifications A74-42, or approved equal; vitrified clay sewer pipe, ASTM specifications C13-44T, or approved equal; or an approved plastic pipe. Any plastic pipe to be installed on any building sewer shall not be approved by the city until the owner has furnished descriptive literature and typical sample section of the plastic pipe proposed for installation, to the city for inspection and review. All joints on all pipe installed shall be tight and waterproof. Any part of the building sewer that is located within 10 feet of a water service pipe or city water main shall be constructed of approved cast iron soil pipe with approved joints. No building sewer shall be installed within three feet of existing gas lines. If installed in filled or unstable ground, the building sewer shall be constructed of cast iron soil pipe, except that non-metallic material may be accepted if laid on a suitable concrete bed or cradle as approved by the city. (Code 2003)

15-408(2). SAME. The size and slope of the building sewer to be installed shall be subject to the approval of the city inspector, but in no event shall the diameter of the pipe be less than four inches. The slope at which a six inch pipe is to be laid shall be not less than 1/8 inch per foot and for four inch pipe, not less than 1/4 inch per foot. Any grades for the pipe, which are proposed for installation at grades less than these specified, shall be approved by the city inspector prior to placement. (Code 2003)

15-408(3). SAME. Whenever possible the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to or within three feet of any bearing wall, which might thereby be weakened. The depth shall be sufficient to afford protection from frost. The building sewer shall be laid at a uniform grade and in straight alignment insofar as possible. Changes in direction shall be made only with approved curved pipe and fittings, including cleanout fittings. (Code 2003)

15-408(4). SAME. At buildings in which the building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer. The use of any pumping equipment for which cross-connections with a public water supply system are needed, is prohibited. The total costs of pumping equipment and pumping equipment operational costs shall be those of the owner. (Code 2003)

15-408(5). SAME. No building sewer shall be laid across a cesspool, septic tank or vault until the cesspool, septic tank or vault has been well cleaned and filled with an approved earth or sand fill, then thoroughly tamped and water settled. Cast iron pipe may be used across cesspools or septic tanks, if proper bedding and support for the sewer pipe is acquired. (Code 2003)

15-408(6). SAME. All excavation required for the installation of the building sewer shall be open trench work unless otherwise approved by the city. Pipe laying and backfill shall be performed in accordance with ASTM specifications C12-19, except

that no backfill shall be placed until the work has been inspected and approved. (Code 2003)

15-408(7). SAME. All joints in the building sewers shall be made watertight. If recommended by the city inspector, a water pressure test shall be made on the completed sewer to insure a compliance with this requirement, requiring that the building sewer withstand an internal water pressure of 5 psi, without leakage.

Cast iron pipe with lead joints shall be firmly packed with oakum or hemp and filled with molten lead, Federal Specifications QQ-L-156, not less than one inch deep. Lead shall be run in one pour and caulked and packed tight. No paint, varnish or other coatings shall be permitted on the jointing material until after the joint has been tested and approved.

All joints in vitrified clay pipe shall be the polyurethane-compression type joints, approved by the city inspector.

Joints for all plastic pipe used in building sewers shall be the slip type joints or solvent weld type, approved by the city.

Joints between any two different types of pipes shall be made with lead, asphaltic jointing materials or concrete, as approved by the city. All joints shall be watertight and constructed to insure minimum root penetration and to the satisfaction of the city. (Code 2003)

15-409. SEWER EXCAVATIONS: DAMAGES. All excavations for buildings sewers shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, curb and gutters, sidewalks, parkways and other public property removed or damaged during the installation of the building sewer, shall be repaired or replaced in a manner acceptable to the city and at the total expense of the owner. It is further agreed that any parties involved in any excavating or installation work for sewer installations as above set out, will hold the city harmless from any and all damages to persons or property resulting from or growing out of any opening or excavation or any negligent act or from any operation made within the city. (Code 2003)

15-410. FAILURE TO CONNECT. (a) If any person as defined in section 1-102 shall fail to connect any dwelling or building with the sewer system after being noticed, the city may cause such buildings to be connected with the sewer system as authorized by K.S.A. 12-631.

(b) The cost and expense, including inspection fees, shall be assessed against the property. Until such assessments shall have been collected and paid to the city, the cost of making such connection may be paid from the general fund or through the issuance of no fund warrants. (Code 2003)

15-411. PRIVY UNLAWFUL. 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 sewage except as provided in this article. (Code 2003)

15-412. PRIVATE SEWER SYSTEM. Where a public sanitary sewer is not available under the provisions of section 15-402 the building sewer shall be connected to a private sewage disposal system complying with the provisions of sections 15-411 to 15-416. (Code 2003)

15-413. SAME; PERMIT. Before commencing construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the utility

superintendent. The application shall be accompanied by any plans, specifications or other information deemed necessary by the utility superintendent. A permit and inspection fee, as determined by the governing body shall be paid to the city at the time the application is filed. (Code 2003)

15-414. SAME; INSPECTION. The utility superintendent or his or her authorized representative shall be allowed to inspect the work at any stage of construction and the applicant shall notify the superintendent when the work is ready for final inspection or before any underground portions are covered. The inspection shall be made within 48 hours of the receipt of notice by the superintendent. (Ord. 769; Code 2003)

15-415. SAME; DISCHARGE. (a) The type, capacities, location, and layout of the private sewage disposal system shall comply with all recommendations and requirements of the Water Pollution Control Section of the Kansas State Department of Health. 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 one acre. No septic tank or cesspool shall be permitted to discharge to any public sewer or natural outlet.

(b) At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in section 15-402, a direct connection shall be made to the public sewer in compliance with this article, and any septic tank, cesspool, and similar private sewage disposal facilities shall be abandoned and filled with suitable and acceptable materials. (Code 2003)

15-416. SAME; ADDITIONAL REQUIREMENTS. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the city or county health officer. (Code 2003)

15-417. DISPOSAL OF SEWAGE. It shall be unlawful for any person to deposit or discharge from any source whatsoever any sewage or human excrement upon any public or private grounds within the city, or to permit the contents of any privy, vault or septic tank to be deposited or discharged upon the surface of any grounds. Any unauthorized or unapproved privy vault, septic tank or other means or places for the disposal of sewage, excrement and polluted water may be abated as a public nuisance upon the order of the city or county board of health in accordance with the laws of Kansas. (K.S.A. 12-1617e; 12-1617g; Code 2003)

15-418. DAMAGE TO SEWERS. It shall be unlawful for any unauthorized person to maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any sewer, structure, appurtenance, or equipment which is part of the municipal sewer system. (Code 2003)

15-419. NATURAL OUTLET. It shall be unlawful to discharge to any natural outlet within the city or in any area under the jurisdiction of the city any sanitary sewage, industrial wastes or other polluted waters except where suitable treatment has been provided in accordance with the provisions of this article. (Code 2003)

15-420. STANDARDS. The size, slope, alignment, materials, excavation, placing of pipe, jointing, testing and backfilling shall all conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the city. (Code 2003)

15-421. 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 utility superintendent, to meet all requirements of this article. (Code 2003)

15-422. MUD, GREASE TRAPS. All garages, filling stations, milk plants or other commercial or industrial plants connected to the public sewer shall construct and maintain proper and sufficient interceptors or traps to prevent the discharge of any sand, mud, sediment, litter, waste or any substance harmful to the effective operation and maintenance of the city sewer system, into the building sewer. (Code 2003)

15-423. ROOF, FOUNDATION DRAINS. (a) It shall be unlawful to connect downspouts from any roof area, drains from any building foundation, paved areas, yards or open courts, or to discharge liquid wastes from any air conditioning unit or cooling device having a capacity in excess of one ton per hour or one horsepower into any city sanitary sewer.

(b) All discharges prohibited in subsection (a) may be discharged into the public gutter or storm drains or open drainage ditches provided such discharge does not create a nuisance. No such liquids may be discharged into any unpaved street or alley. (Code 2003)

15-424. SAME; EXCEPTION. Discharges from air conditioning units in excess of one ton per hour or one horsepower may be permitted into a building sewer upon approval of the utility superintendent where there is a finding that such cooling water cannot be recirculated and that such waste water does not overload the capacity of the sewer or interfere with the effective operation of the sewage disposal works of the city. (Code 2003)

15-425. PROHIBITED DISCHARGES. No person shall discharge any of the following waters or wastes to any public sewer:

(a) Liquid or vapor having a temperature higher than 150 degrees Fahrenheit;

(b) Water or waste which may contain more than 100 parts per million, by weight, of fat, oil or grease;

(c) Gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas;

(d) Garbage that has not been properly shredded;

(e) Ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure, or any other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works;

(f) Waters or wastes having a ph lower than 5.5 or higher than 9.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works;

(g) Waters or wastes containing a toxic poisonous substance in sufficient quantity to injury or interfere with any sewage treatment process, constitute a hazard to humans or animals, or create any hazard in the receiving waters of the sewage treatment plant;

(h) Water or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant;

(i) Noxious or malodorous gas or substance capable of creating a public nuisance. (Code 2003)

15-426. BILLS. (a) The city shall render bills for sewer service charges to all owners of record of property connected to the city's sewage system. Bills so rendered shall include a charge for each month the premises were connected to the sewer without regard to whether the premises were occupied or unoccupied during all or part of the billing period and whether or not water was actually discharged into the system during the billing period. Bills shall be rendered monthly as provided in section 15-102 and shall be collected as a combined utility bill.

(b) Any person at the time of beginning or terminating service who receives service for a period of less than 17 consecutive days shall be billed at no less than one-half of the regular minimum monthly rate. For service of 17 consecutive days or more the charge shall be not less than full regular minimum monthly rate. (Ord. 465, Sec. 1; Code 2003)

15-427. UNPAID BILLS. All bills remaining unpaid after the 15th day of the following month in which the bill becomes due shall have a penalty of 5% added to the total bill for sewerage service charges.

Failure to receive a bill shall not excuse a customer from his or her obligation to pay within the time specified.

Should the city be unable to bill a customer for services rendered during the month, the billing next made shall include the charges for sewerage service rendered during the unbilled month. A month shall be considered a period of 30 days.

Any or all portions of a bill, including penalties, which are delinquent six months or more on June 30th of each year shall be certified to the county clerk for collection at the same time all ad valorem taxes are collected. (Ord. 362, Sec. 5)

15-428. DELINQUENT ACCOUNTS; LIEN AGAINST PROPERTY. (a) In the event any person, except the United States and the state of Kansas or any political subdivision thereof, shall fail to pay the user charges when due, water service shall be terminated as provided in sections 15-102:104.

(b) In lieu of terminating water service, the governing body may elect to assess such delinquent charges as a lien upon the real estate serviced as provided in section 15-106, and the city clerk shall certify such delinquent charges to the county clerk to be placed on the tax roll and collected in like manner as other taxes are collected. (Code 2003)

15-429. WASTEWATER COLLECTION AND TREATMENT CHARGES. (a) The following classes of users and charges to those users are hereby established:

(1) CLASS I. Residential Users and Other Small Contributors. Single Family Contributors, single-story multi-family dwellings, small businesses denoted as home occupations, and non-residential small entities contributing less than three hundred (300) gallons per day of normal strength sewage:

(2) CLASS I(A). Multi-story Multi-Family Dwellings. A multi-story multi-family complex contributing less than three hundred (300) gallons per unit per day of normal strength sewage. The charge listed in Table 1 below per unit shall be assessed on the basis of the total number of units, regardless of whether or not they are occupied. The City shall send one monthly bill to the owners, who shall be responsible for paying the monthly charge.

(3) CLASS II. Light Commercial/Small Industrial Users. Non-residential users which contribute between three hundred (300) and one thousand (1,000) gallons per day of less than or equal to normal domestic strength sewage.

(4) CLASS III. Heavy Commercial Users. Non-residential users which contribute over one thousand (1,000) gallons per day of less than or equal to normal domestic strength sewage.

(5) CLASS IV. Educational Institutions. School Districts, treated as one customer, shall pay an amount of $12,600.00 per month for wastewater service. This amount is based upon a maximum School District enrollment within the City's sewer service area of six thousand (6,000) students. Any properties owned by the School District that are used for administration only will be considered a separate Class II or Class III user.

(6) CLASS V. Higher Education Institutions. Any public or private school building that provides education beyond the requirements of high school graduation and contributes three hundred (300) gallons per day of less than or equal to normal domestic strength sewage shall pay the following monthly fees.

(7) CLASS VI. Extra-Strength Users. Business and Industrial Users of the City Sewer System that discharge greater than normal domestic strength sewage.

(b) Class I, Class I(A), Class II, Class III, Class V and Class VI users shall pay a monthly flat rate sewer charge that will be adjusted on an annual basis as set forth in Table 1 below:

Table 1: Water User Rates – 2017 to 2019

Effective Date	Class	Flat Rate
January 1, 2017	CLASS I. Residential Users and Other Small Contributors	$ 31.75
	CLASS I(A). Multi-Story Multi-Family Dwellings	$ 19.61
	CLASS II. Light Commercial/Small Industrial Users	$ 62.75
	CLASS III. Heavy Commercial Users	$124.75
	CLASS V. Higher Education Institutions	$124.75
	CLASS VI. Extra-Strength Users	$75.87
January 1, 2018	CLASS I. Residential Users and Other Small Contributors	$32.00
	CLASS I(A). Multi-Story Multi-Family Dwellings	$19.86
	CLASS II. Light Commercial/Small Industrial Users	$63.00
	CLASS III. Heavy Commercial Users	$125.00
	CLASS V. Higher Education Institutions	$125.00
	CLASS VI. Extra-Strength Users	$75.92
January 1, 2019	CLASS I. Residential Users and Other Small Contributors	$32.25
	CLASS I(A). Multi-Story Multi-Family Dwellings	$20.11
	CLASS II. Light Commercial/Small Industrial Users	$63.25
	CLASS III. Heavy Commercial Users	$125.25
	CLASS V. Higher Education Institutions	$125.25
	CLASS VI. Extra-Strength Users	$125.25

(3) In addition to the flat rate sewer charge set forth in Table 1 above, Class I, Class I(A), Class II, Class III, Class V and Class VI shall pay $3.00 per unit per month Wastewater Treatment Plant Expansion fee.

(4) Class VI. Extra-Strength Users. A minimum service unit charge shall be charged as if they are Class III Heavy Commercial Users in addition to the flat rate Extra-Strength User charge set forth in Table 1 and the $3.00 per month Wastewater Treatment Plant Expansion fee set forth in Section 15-429(b)(3). Charges to these users will be commensurate with their flows and contributions using a quarterly flow measuring system to be administered at the discretion of the City of Maize. Those parameters shall be routinely measured by the City. Parameters shall include a parameter defined as "other" which may be any substance that is deemed by the City or the Kansas Department of Health and Environment to have caused the City to be in violation of its discharge permit. If such charges relating to the specific damage are not defined, the City shall determine and assess the cost of the actual damages incurred by the City. Sewage discharged to the sanitary sewer system from a user who contributes greater than domestic strength wastewater, as determined by the Environmental Protection Agency methodology stipulated in 40 C.F.R. part 13C analysis procedures, is subject to Extra-Strength charges. Sample collection methodology will be as verified by the Director of Public Works. The charge to users which contribute greater than normal domestic strength wastewater shall be:

EXTRA-STRENGTH UNIT CHARGES:

	Charges per pound based on quarterly samples
BOD	$0.07
Suspended Solids	$0.11
Grease	$0.53
Other	$0.53

	Charges per 1,000 gallons of discharge based on quarterly samples
Volume per 1,000 gallons	$1.80

(Ord. 921)

15-430. CONNECTION AND EQUITY FEES. No one shall tap or hook onto or into the City water lines without first applying for sewer service from the City of Maize, Kansas.

(a) A connection fee of $1,000.00 is hereby established. This fee shall be assessed upon application to tap or hook into the sewer lines.

(b) In addition, a plant equity fee in the following amount shall be assessed to all users per connection. This fee shall be assessed upon application to tap or hook into the sewer lines:

(1) ¾-inch or smaller meter - $1,100
(2) 1-inch meter - $1,500
(3) 1½-inch meter - $2,100
(4) 2-inch meter - $2,600
(5) 3-inch meter - $3,600
(6) 4-inch meter - $5,100
(7) 6-inch meter - $7,600
(8) Meters larger than 6-inch - $11,000.

(Ord. 882)

15-430A. LATERAL SEWER CONNECTION FEE AND SEWER BASIN CONNECTION FEE. (a) When no special assessment has been made for a lateral sewer against property to be connected to the City sewer system, for property that has not been previously connected to the City sewer system and where the cost of the lateral sewer being connected to has been specially assessed against other properties, an assessment fee for allowing connection to the municipal sewer utility shall be assessed. This Lateral Sewer Connection Fee shall be the pro rata cost as determined by taking the average of the three most recent sewer utility projects within the City and applying to the applicant's property the same method of assessment, whether per lot or otherwise, said calculation to utilize the three most recent projects total cost assessed in making the calculations.

(b) Regardless of whether an assessment has been made for lateral sewer or a connecting fee paid pursuant to subsection (a) above, where property is located within a Sewer Basin, a Sewer Basin Connection Fee shall be paid by the owner of property proposing to connect to City sewer when no special assessment has been made for the Sewer Basin against the property to be connected to the City sewer. As used herein, Sewer Basin shall mean an area of land specifically designated by the governing body of the City of Maize to benefit from a previously established interceptor sewer line, sewer main or other related improvement. The Sewer Basin Connection Fee shall be a fee specifically established by the City for each Sewer Basin based upon the (i) total cost to the City-at-large for the sewer line or related improvements benefiting the Sewer Basin (including, but not limited to, construction, excavation and material costs, as well as legal, administrative, fiscal, engineering, finance and interest costs directly related to the improvement), and (ii) the relationship that the total area of the property proposing to connect to the City sewer (inclusive of streets, parks, reserves and other public dedications) bears to the total land area within the Sewer Basin from which the City intends to recoup its expenses.

(c) Subject to subsection (d), the Lateral Sewer Connection Fee and the Sewer Basin Connection Fee shall be due for any property upon the approval of the application for connection. Such fee(s) shall be paid before a permit to connect to the sewer is issued.

(d) As an alternative to paying the Lateral Sewer Connection Fee or the Sewer Basin Connection Fee at the time of approval of application for connection to the sewer system as provided in subsection (c) above, the owner of 100% of the property to be served may request, and the City in its sole discretion may provide for the Sewer Lateral Connection Fee and/or the Sewer Basin Connection Fee to be divided into ten (10) equal annual installments and placed upon the tax rolls for collection. Said installments may include interest at the average yield borne by the City's most recently issued general obligation bonds. Upon such certification said charges shall become a lien against the property upon which they are certified, subject to the same penalties and collected in the same manner as taxes levied against the property are by law collectible.

(e) This Section 15-430A shall be construed as being in accordance with the laws of the state of Kansas and an provision herein deemed or finally determined to be contrary to the laws of Kansas shall be void; provided that, in such event, the remaining provisions of this Section shall remain in full force and effect. (Ord. 768)

15-431. RATES FOR CUSTOMERS OUTSIDE THE CITY LIMITS OF CITY. Individuals serviced by the City's Municipal Sewer System at locations outside the corporate limits of the City shall pay a minimum charge equal to one hundred fifty

percent (150%) of the minimum charge paid by customers within the City limits of the City. (Ord. 690, Sec. 3)

15-432. SEVERABILITY. If any provision of this Article is declared invalid or unconstitutional, or the application thereof to any person or circumstance is held invalid, the constitutionality of the remainder of this Article and the application thereof to other persons and circumstances shall not be affected thereby. (Ord. 690, Sec. 4)

ARTICLE 5. SOLID WASTE

15-501. DEFINITIONS. Unless the context clearly indicates otherwise, the meaning of words and terms as used in this article shall be as follows:

(a) Commercial Waste. All refuse emanating from establishments engaged in business including, but not limited to stores, markets, office buildings, restaurants, shopping centers, theaters, hospitals, governments and nursing homes.

(b) Dwelling Unit. Any enclosure, building or portion thereof occupied by one or more persons for and as living quarters;

(c) Garbage. Waste resulting from the handling, processing, storage, packaging, preparation, sale, cooking and serving of meat, produce and other foods and shall include unclean containers;

(d) Multi-Family Unit. Any structure containing more than four individual dwelling units;

(e) Refuse. All garbage and/or rubbish or trash;

(f) Residential. Any structure containing four or less individual dwelling units, rooming houses having no more than four persons in addition to the family of the owner or operator, and mobile homes;

(g) Rubbish or Trash. All nonputrescible materials such as paper, tin cans, bottles, glass, crockery, rags, ashes, lawn and tree trimmings, stumps, boxes, wood, street sweepings and mineral refuse. Rubbish or trash shall not include earth and waste from building operations or wastes from industrial processes or manufacturing operations;

(h) Single Dwelling Unit. An enclosure, building or portion thereof occupied by one family as living quarters.

(i) Solid Waste. All non-liquid garbage, rubbish or trash. (Code 2003)

15-502. COLLECTION. All solid waste accumulated within the city shall be collected, conveyed and disposed of by the city or by contractors specifically authorized to collect and dispose of solid waste. (Code 2003)

15-503. CONTRACTS. The city shall have the right to enter into a contract with any responsible person for collection and disposal of solid waste. (Code 2003)

15-504. DUTY OF OWNER, OCCUPANT. The owner or occupant of every dwelling unit or commercial enterprise shall provide at his or her own expense a suitable container for the storage of solid waste as provided in this article. No owner or occupant shall permit to accumulate quantities of refuse or other waste materials within or close to any structure within the city unless the same is stored in approved containers and in such a manner as not to create a health or fire hazard. (Code 2003)

15-505. CONTAINERS. Residential containers shall have a capacity of not more than 30 gallons. They shall be of galvanized metal or other non-rusting material of substantial construction. Each container shall have a tight fitting lid and shall be leak-proof and fly-tight. All containers shall have handles of suitable construction to permit lifting. Plastic bags manufactured for garbage and refuse disposal may be substituted for residential containers. Plastic bags, when used, shall be securely closed. All garbage shall be drained of all liquids before being placed in bags or containers. (Code 2003)

15-506. BULK CONTAINERS. On premises where excessive amounts of refuse accumulates or where cans or bags are impractical bulk containers for the storage of refuse may be used. Containers shall have a capacity and shall be equipped with appurtenances for attaching mechanical lifting devices which are compatible with the collection equipment being used. Containers shall be constructed of durable rust and corrosion resistant material which is easy to clean. All containers shall be equipped with tight fitting lids or doors to prevent entrance of insects or rodents. Doors and lids shall be constructed and maintained so they can be easily opened. Containers shall be watertight, leakproof and weather proof construction. (Code 2003)

15-507. ENTER PRIVATE PREMISES. Solid waste collectors, employed by the city or operating under contract with the city, are hereby authorized to enter in and upon private property for the purpose of collecting solid waste therefrom as required by this article. (Code 2003)

15-508. OWNERSHIP OF SOLID WASTE. Ownership of solid waste when placed in containers by the occupants or owners of premises upon which refuse accumulates, shall be vested in the city and thereafter shall be subject to the exclusive control of the city, its employees or contractors. No person shall meddle with refuse containers or in any way pilfer or scatter contents thereof in any alley or street within the city. (Code 2003)

15-509. WRAPPING GARBAGE. All garbage shall be drained of all excess liquid, and wrapped in paper or other disposable container before being placed in solid waste containers. (Code 2003)

15-510. HEAVY, BULKY WASTE. Heavy accumulations such as brush, tree limbs, broken concrete, sand or gravel, automobile frames, dead trees, and other bulky, heavy materials shall be disposed of at the expense of the owner or person controlling same. (Code 2003)

15-511. HAZARDOUS MATERIALS. No person shall deposit in a solid waste container or otherwise offer for collection any hazardous garbage, refuse, or waste. Hazardous material shall include:

(a) Explosive materials;
(b) Rags or other waste soaked in volatile and flammable materials;
(c) Chemicals;
(d) Poisons;
(e) Radio-active materials;
(f) Highly combustible materials;
(g) Soiled dressings, clothing, bedding and/or other wastes, contaminated by infection or contagious disease;

(h) Any other materials which may present a special hazard to collection or disposal personnel, equipment, or to the public. (Code 2003)

15-512. PROHIBITED PRACTICES. It shall be unlawful for any person to:

(a) Deposit solid waste in any container other than that owned or leased by him or under his control without written consent of the owner and/or with the intent of avoiding payment of the refuse service charge;

(b) Interfere in any manner with employees of the city or its contractors in the collection of solid waste;

(c) Burn solid waste except in an approved incinerator and unless a variance has been granted and a written permit obtained from the city or the appropriate air pollution control agency;

(d) Bury refuse at any place within the city except that lawn and garden trimmings may be composted. (Code 2003)

15-513. OBJECTIONABLE WASTE. Manure from cow lots, stables, poultry yards, pigeon lofts and other animal or fowl pens, and waste oils from garages or filling stations shall be removed and disposed of at the expense of the person controlling the same and in a manner consistent with this article. (Code 2003)

15-514. UNAUTHORIZED DISPOSAL. No person shall haul or cause to be hauled any garbage, refuse or other waste material of any kind to any place, site or area within or without the limits of the city unless such site is a sanitary landfill, transfer point or disposal facility approved by the Kansas State Department of Health and Environment. (Code 2003)

15-515. PRIVATE COLLECTORS; LICENSE REQUIRED. (a) It shall be unlawful for any person, except an employee of the city specifically authorized for that purpose, to collect or transport any solid waste within the city, without securing a license from the city.

(b) Nothing herein shall be construed to prevent a person from hauling or disposing of his or her own solid waste providing it is done in such a manner as not to endanger the public health or safety or not to become an annoyance to the inhabitants of the city, and not to litter the streets and alleys of the city. (Code 2003)

15-516. SAME; APPLICATION. Any person desiring to collect or transport solid waste within the city shall make application for a license to the city clerk. The application shall set forth the name and address of the applicant, the make and type of vehicle to be operated for collecting and transporting solid waste. The application shall be accompanied by a certificate of inspection and approval of said vehicle by the county health officer issued not more than 15 days prior to the date of application. (Code 2003)

15-517. SAME; FEE. No license shall be issued unless the applicant shall pay to the city clerk the sum of $_____ per annum for each vehicle used in the collection and transportation of solid waste. The permit shall be effective only for the calendar year and shall expire on December 1st of the calendar year in which said permit is issued. (Code 2003)

15-518. SAME; NUMBER TO BE DISPLAYED. The city clerk shall issue a license receipt together with a number, which shall be painted on each vehicle. Said

number shall be conspicuously placed upon the vehicle in a place and position to be clearly visible and in a condition to be clearly legible. The number shall be used only on the vehicle for which it is issued. (Code 2003)

15-519. CLOSED VEHICLE. Any vehicle used by any person for the collection and transportation of solid waste shall be maintained in a good mechanical condition. Vehicle shall be equipped with an enclosed covered body to prevent the contents leaking or escaping therefrom. Only tree trimmings or brush may be transported in open-bodied vehicles provided the material is securely tied in place to prevent scattering along the streets and alleys. (Code 2003)

15-520. RULES AND REGULATIONS. The collection and transportation of trash and waste materials shall be at all times under the general supervision of the mayor or his or her duly authorized agent, who shall have the authority by and with the consent of the governing body to make additional rules and regulations not inconsistent with the terms and provisions of this article requiring that the collection and transportation of trash and waste materials shall be conducted in such manner as not to endanger the public health, or to become an annoyance to the inhabitants of the city, and providing for a proper fee to be charged to the customer. (Code 2003)

15-521. FAILURE TO SECURE LICENSE. Any person who shall conduct or operate within the city limits any vehicle for the purpose of collecting and transporting solid waste without first obtaining a license as required by this article or who shall violate the terms and provisions of this article shall be deemed guilty of a violation of this code and upon conviction thereof shall be punished as provided in section 1-116. (Code 2003)

15-522. CHARGES. The city shall establish and collect a service charge to defray the cost and maintenance of the collection and disposition of solid waste within the city. (Code 2003)

ARTICLE 6. WATER CONSERVATION

15-601. PURPOSE. The purpose of this article is to provide for the declaration of a water supply emergency and the implementation of voluntary and mandatory water conservation measures throughout the city in the event such an emergency is declared. (Ord. 572, Sec. 1; Code 2003)

15-602. DEFINITIONS. (a) Water shall mean water available to the city for treatment by virtue of its water rights or any treated water introduced by the city into its water distribution system, including water offered for sale at any coin-operated site.

(b) Customer shall mean the customer of record using water for any purpose from the city's water distribution system and for which either a regular charge is made or, in the case of coin sales, a cash charge is made at the site of delivery.

(c) Waste of Water includes, but is not limited to (1) permitting water to escape down a gutter, ditch, or other surface drain, or (2) failure to repair a controllable leak of water due to defective plumbing.

(d) The following classes of uses of water are established:

Class 1: Water used for outdoor watering, either public or private, for gardens, lawns, trees, shrubs, plants, parks, golf courses, playing fields, swimming pools or other recreational area; or the washing of motor vehicles, boats, trailers, or the exterior of any building or structure.

Class 2: Water used for any commercial or industrial, including agricultural, purposes; except water actually necessary to maintain the health and personal hygiene of bona fide employees while such employees are engaged in the performance of their duties at their place of employment.

Class 3: Domestic usage, other than that which would be included in either classes 1 or 2.

Class 4: Water necessary only to sustain human life and the lives of domestic pets and maintain standards of hygiene and sanitation.

(Ord. 572, Sec. 2; Code 2003)

15-603. DECLARATION OF A WATER EMERGENCY. Whenever the governing body of the city finds that an emergency exists by reason of a shortage of water supply needed for essential uses, it shall be empowered to declare by resolution that a water supply emergency exists and that it will encourage voluntary water conservation or impose mandatory restrictions on water use during the period of the emergency. Such an emergency shall be deemed to continue until it is declared by resolution of the governing body to have ended. The resolutions declaring the existence and end of a water supply emergency shall be effective upon their publication in the official city newspaper. (Ord. 572, Sec. 3; Code 2003)

15-604. VOLUNTARY CONSERVATION MEASURES. Upon the declaration of a water supply emergency as provided in section 15-603, the mayor is authorized to call on all water consumers to employ voluntary water conservation measures to limit or eliminate non-essential water uses including, but not limited to, limitations on the following uses:

(a) Sprinkling of water on lawns, shrubs or trees (including golf courses).

(b) Washing of automobiles.

(c) Use of water in swimming pools, fountains and evaporative air conditioning systems.

(d) Waste of water. (Ord. 572, Sec. 4; Code 2003)

15-605. MANDATORY CONSERVATION MEASURES. Upon the declaration of a water supply emergency as provided in section 15-603, the mayor is also authorized to implement certain mandatory water conservation measures, including, but not limited to, the following:

(a) Suspension of new connections to the city's water distribution system, except connections of fire hydrants and those made pursuant to agreements entered into by the city prior to the effective date of the declaration of the emergency;

(b) Restrictions on the uses of water in one or more classes of water use, wholly or in part;

(c) Restrictions on the sales of water at coin-operated facilities or sites;

(d) The imposition of water rationing based on any reasonable formula including, but not limited to, the percentage of normal use and per capita or per consumer restrictions;

(e) Complete or partial bans on the waste of water; and

(f) Any combination of the foregoing measures. (Ord. 572, Sec. 5; Code 2003)

15-606. EMERGENCY WATER RATES. Upon the declaration of a water supply emergency as provided in section 15-603, the governing body of the city shall have the power to adopt emergency water rates by ordinance designed to conserve water supplies. Such emergency rates may provide for, but are not limited to:

(a) Higher charges for increasing usage per unit of the use (increasing block rates);

(b) Uniform charges for water usage per unit of use (uniform unit rate); or

(c) Extra charges in excess of a specified level of water use (excess demand surcharge). (Ord. 572, Sec. 6; Code 2003)

15-607. REGULATIONS. During the effective period of any water supply emergency as provided for in section 15-603, the mayor is empowered to promulgate such regulations as may be necessary to carry out the provisions of this article, any water supply emergency resolution, or emergency water rate ordinance. Such regulations shall be subject to the approval of the governing body at its next regular or special meeting. (Ord. 572, Sec. 7; Code 2003)

15-608. VIOLATIONS, DISCONNECTIONS AND PENALTIES. (a) If the mayor, water superintendent, or other city official or officials charged with implementation and enforcement of this article or a water supply emergency resolution or ordinance learn of any violation of any water use restrictions imposed pursuant to sections 15-605 or 15-607, a written notice of the violation shall be affixed to the property where the violation occurred and the customer of record and any other person known to the city who is responsible for the violation or its correction shall be provided with either actual or mailed notice. The notice shall describe the violation and order that it be corrected, cured or abated immediately or within such specified time as the city determines is reasonable under the circumstances. If the order is not complied with, the city may terminate water service to the customer subject to the following procedures:

(1) The city shall give the customer notice by mail or actual notice that water service will be discontinued within a specified time due to the violation and that the customer will have the opportunity to appeal the termination by requesting a hearing scheduled before the city governing body or a city official designated as a hearing officer by the governing body.

(2) If such a hearing is requested by the customer charged with the violation, he or she shall be given a full opportunity to be heard before termination is ordered; and

(3) The governing body or hearing official shall make findings of fact and order whether service should continue or be terminated.

(b) A fee of $50 shall be paid for the reconnection of any water service terminated pursuant to subsection (a). In the event of subsequent violations, the reconnection fee shall be $200 for the second violation and $300 for any additional violations.

(c) Violation of this article shall be a municipal offense and may be prosecuted in municipal court. Any person so charged and found guilty in municipal court of violating the provisions of this article shall be guilty of a municipal offense. Each day's violation shall constitute a separate offense. The penalty for an initial violation shall be a mandatory fine of $100. In addition, such customer may be required by the court to serve a definite term of confinement in

the city or county jail which shall be fixed by the court and which shall not exceed 30 days. The penalty for a second or subsequent conviction shall be a mandatory fine of $200. In addition, such customer shall serve a definite term of confinement in the city or county jail which shall be fixed by the court and which shall not exceed 30 days. (Ord. 572, Sec. 8; Code 2003)

15-609. EMERGENCY TERMINATION. Nothing in this article shall limit the ability of any properly authorized city official from terminating the supply of water to any or all service connections as required to protect the health and safety of the public. (Ord. 572, Sec. 9; Code 2003)

ARTICLE 7. WATER QUALITY PROTECTION

15-701. CROSS-CONNECTIONS; DEFINITIONS. The following definitions shall apply in interpretation and enforcement of this Article 7:

(a) "Air Gap Separation" means the unobstructed vertical distance 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 overflow level rim of the receptacle, and shall be at least double the diameter of the supply pipe measured vertically above the flood level rim of the vessel, but in no case less than one inch.

(b) "Approved Tester" means a person certified to make inspections; to test and repair Backflow Prevention Devices, who is approved by the City.

(c) "Authorized Representative" means any person or persons designated by the City to administer this Article 7.

(d) "Article 7" means Article 7 of Chapter XV of the Code of the City of Maize, Kansas.

(e) "Auxiliary Water Supply" means any water source or system, other than the City Water Supply System, that may be available in the building or premises; this does not include other KDHE-permitted Public Water Systems.

(f) "Backflow" means the flow from other than the intended direction of flow, of any foreign liquids, gases, used water or other substances into a Public Water System.

(g) "Backflow Prevention Assembly" means any approved assembly, method or type of construction intended to prevent backflow into the Public Water System that can be tested.

(h) "Backflow Prevention Device" means any approved device, method or type of construction intended to prevent Backflow into the Public Water System that cannot be tested.

(i) "City" means the City of Maize, Kansas.

(j) "Consumer" means any individual, firm, partnership, corporation or agency or their authorized agent receiving water from the City.

(k) "Consumer's Water System" means all service pipes, all distribution piping and all appurtenances beyond the service meter of the Public Water System.

(l) "Contaminants" or "Contamination" means sewage, process fluids, chemicals, wastes or any other substance that is a threat to life, safety or health, or that may cause an aesthetic deterioration, color, taste or odor.

(m) "Cross-Connection" means any physical connection or arrangement between two otherwise separate piping systems whereby there may be a Backflow of Contaminates from the separate piping system into the Public Water System or the Consumer's Water System.

(n) "Degree of Hazard" means an evaluation of the potential risk to public health and the adverse effect of the hazard upon anyone using the water.

(o) "Health Hazard" means any condition, device or practice that does or could create a danger to the health and well-being of anyone who uses the Public Water System which includes the introduction or potential introduction of Contaminants into the Public Water System.

(p) "KDHE" means the Kansas Department of Health and Environment.

(q) "Public Water System" means the water supply source, distribution and appurtenances to the service meter operated as a public utility which supplies potable water to the Consumer's Water Systems.

(r) "Service Connection" means the terminal end of the service line from the Public Water System. If a meter is installed at the end of the service, then the Service Connection means the downstream end of the meter.

(s) "Water Quality Protection Ordinance" means the Ordinance establishing Article 7 of Chapter XV of the Code of the City of Maize, Kansas. (Ord. 909)

15-702. CROSS-CONNECTION CONTROL GENERAL POLICY. (a) Purpose. The purpose of this policy is:

(1) to protect the Public Water System from Contamination.

(2) to promote the elimination, containment, isolation or control of Cross-Connection between the Public Water System and non-potable water systems, plumbing fixtures and industrial process systems or other systems which introduce or could introduce Contaminants into the Public Water System or the Consumer's Water System.

(3) To provide for the maintenance of a continuing program of Cross-Connection control which will prevent the Contamination of the Public Water System.

(b) Application. This article shall apply to all Consumer's Water Systems. The City may also require Cross-Connection control devices at the Service Connections of other KDHE-permitted Public Water Systems serviced by the City.

(c) Intent. This Article 7 will be reasonably interpreted by the City. It is the intent of the City to recognize the varying Degrees of Hazard and to apply the principle that the degree of protection shall be commensurate with the Degree of Hazard. If, in the judgment of the City or its Authorized Representative, Cross-Connection protection is required through either piping modification or installation of an approved Backflow Prevention Assembly, notice shall be given to the Consumer. The Consumer shall immediately comply by providing the required protection at his or her own expense. Failure or refusal or inability on the part of the Consumer to provide such protection shall constitute grounds for the discontinuation of water service to the Consumer's premises until such protection has been provided. (Ord. 909)

15-703. CROSS-CONNECTIONS PROHIBITED. (a) No water Service Connection shall be installed or maintained to any premises where actual or potential Cross-Connections to the Public Water System may exist unless such actual or potential Cross-Connections are abated or controlled to the satisfaction of the City or its Authorized Representative.

(b) No connection shall be installed or maintained whereby an Auxiliary Water Supply may enter a Public Water System. (Ord. 909)

15-704. RIGHT OF ENTRY. (a) Whenever necessary to make an inspection to enforce one of the provisions of this Article 7, or whenever the Authorized

Representative has reasonable cause to believe that there exists, in any building or upon any premises, any condition which violates this Article 7, the Authorized Representative is authorized to enter such building or premises at all reasonable times to inspect the same or to perform any duty authorized by this Article 7, provided that if such building or premises is occupied, the Authorized Representative shall first present proper credentials and demand entry; and if such building or premises is unoccupied, the Authorized Representative shall first make a reasonable effort to locate the owner or the persons having charge or control of the building or premises and demand entry; if such entry is refused, the Authorized Representative shall have recourse to every remedy provided by law to secure entry. (Ord. 909)

15-705. PROTECTION IS REQUIRED. (a) An approved Air Gap Separation or Backflow Prevention Assembly shall be installed to the satisfaction of the City or its Authorized Representative and KDHE, at the Service Connection within any premises where, in the judgment of the City or its Authorized Representative or KDHE the nature and extent of activities on the premises, or the materials used in connection with the activities or materials stored on the premises would present a Health Hazard or Contamination of Public Water System from a Cross-Connection. The following are some examples of when Air Gap Separation or Backflow Prevention Assemblies are required:

(1) premises having an Auxiliary Water Supply, unless the quality of the Auxiliary Water Supply is acceptable to the City or its Authorized Representative and KDHE;

(2) premises having internal plumbing arrangements which make it impractical to ascertain whether or not Cross-Connections exist;

(3) premises where entry is restricted so that inspection for Cross-Connections cannot be made with sufficient frequency or at sufficiently short notice to assure the Cross-Connections do not exist;

(4) premises having a repeated history of Cross-Connections being established or reestablished;

(5) premises which, due to the nature of the enterprise therein, are subject to recurring modification or expansion;

(6) premises on which any substance is handled under pressure so as to permit entry into the Public Water System, or where a Cross-Connection could reasonably be expected to occur; this shall include the handling of processed waters and cooling waters;

(7) premises where toxic or hazardous materials are handled.

(b) The following are examples of when Air Gap Separation or Backflow Prevention Assemblies may be required by the City or its Authorized Representative or the KDHE to protect the Public Water System unless all hazardous conditions have been eliminated by other methods to the satisfaction of the City or its Authorized Representative and the KDHE. This list is not all-inclusive:

(1) agricultural chemical facilities;
(2) Auxiliary Water Systems, wells;
(3) boilers;
(4) bulk water loading facilities;
(5) car washing facilities;
(6) chemical manufacturing, processing, compounding or treatment plants;
(7) chill water systems;

(8) cooling towers;
(9) feedlots;
(10) fire protection systems;
(11) hazardous waste storage and disposal sites;
(12) hospitals, mortuaries, clinics or others as discovered by sanitary surveys;
(13) irrigation and sprinkler systems;
(14) laundry and dry cleaning facilities;
(15) meat processing facilities;
(16) metal manufacturing, cleaning, processing and fabricating plants;
(17) oil and gas production, refining, storage or transmission properties;
(18) plating plants;
(19) power plants;
(20) research and analytical laboratories;
(21) sewage and storm drainage facilities – pumping stations and treatment plants;
(22) veterinary clinics. (Ord. 909)

15-706. BACKFLOW PREVENTION ASSEMBLIES. (a) Any Backflow Prevention Assembly required by this Article 7 shall be of a model or construction approved by the City or its Authorized Representative and KDHE. The City references the University of Southern California list of approved Backflow Prevention Assemblies. The following are examples of acceptable Backflow Prevention Assemblies and minimum requirements for such acceptable Backflow Prevention Assemblies:

(1) Air Gap. Air Gap Separation shall be at least twice the diameter of the supply pipe, measured vertically above the top rim of the vessel, but in no case less than one inch;

(2) Reduced Pressure Principal Backflow Prevention Assembly (RPZ). The RPZ is an assembly containing two independently acting approved check valves together with a hydraulically operating, mechanically independent pressure differential relief valve located between the check valves and at the same time below the first check valve. The unit shall include properly located test cocks and tightly closing shutoff valves at each end of the assembly. The RPZ is satisfactory for most toxic materials. The RPZ shall be inspected and tested annually and repaired as necessary.

(3) Double Check Valve Assembly. The Double Check Valve Assembly is an assembly composed of two independently acting, approved check valves, including tightly closing shutoff valves attached at each end of the assembly and fitted with properly located test cocks. This assembly shall only be used to protect against a non-Health Hazard. Minor pressure loss from the Double Check Valve Assembly shall be tested and inspected annually and repaired as necessary.

(4) Pressure Vacuum Breaker (PVB). The PVB is an assembly containing an independently operating internally loaded check valve and an independently operating loaded inlet valve located in the discharge side of the check valve. The assembly is to be equipped with properly located test cocks and tightly closing shutoff valves attached to each end of the assembly. The PVB shall be installed a minimum of 12 inches above the highest point of usage, with no back pressure, only back siphonage. Although the PVB can operate under constant pressure, it shall be inspected and tested annually and repaired as necessary.

(5) Atmospheric Vacuum Breaker (AVB). The AVB shall be installed a minimum of six inches above the highest point of usage. The AVB shall have no back pressure, only siphonage, and shall not be used under constant pressure. The shutoff valve on the AVB must be located ahead of the vacuum breaker and shall be inspected annually and replaced as necessary. (Ord. 909)

15-707. INSTALLATION. (a) Backflow Prevention Assemblies required by this Article 7 shall be installed at a location and in a manner approved by the City or its Authorized Representative. All assemblies shall be installed at the expense of the Consumer.

(b) Backflow Prevention Assemblies shall be conveniently accessible for maintenance and testing, protected from freezing, and shall be located where no part of the device will be submerged or subject to flooding by any fluid. All assemblies shall be installed according to manufacturer's recommendations. (Ord. 909)

15-708. INSPECTION AND MAINTENANCE. (a) The Consumer is required by this Article 7 to inspect, test and overhaul Backflow Prevention Assemblies in accordance with the following schedule or more often as determined by the City or its Authorized Representative:

(1) Air Gap Separations shall be inspected at the time of installation and at least monthly thereafter.

(2) Double Check Valve Assemblies shall be inspected and tested for tightness at the time of installation and at least every twelve (12) months thereafter. They shall be dismantled, inspected and internally cleaned, and repaired whenever needed.

(3) Reduced pressure principle Backflow Prevention Assemblies shall be inspected and tested for tightness at the time of installation and at least every twelve (12) months thereafter. They shall be dismantled, inspected internally, cleaned and repaired whenever needed.

(b) Inspections, tests, and overhauls of Backflow Prevention Assemblies shall be made at the expense of the Consumer and shall be performed by a Certified Tester.

(c) Whenever Backflow Prevention Assemblies required by this Article 7 are found to be defective, they shall be repaired or replaced without delay at the expense of the Consumer.

(d) The Consumer must maintain a complete record of each Backflow Prevention Assembly from purchase to retirement. This shall include a comprehensive listing that includes a record of all tests, inspections and repairs. All records of inspections, tests, repairs and overhauls shall be provided within thirty (30) days to the City or its Authorized Representative.

(e) All Backflow Prevention Assemblies shall have a tag showing the date of the last inspection, test, overhaul or other maintenance.

(f) Backflow Prevention Assemblies shall not be bypassed, made inoperative, removed or otherwise made ineffective. (Ord. 909)

15-709. REMEDIES. (a) The City or its Authorized Representative may deny or discontinue the water service to any premises of any Consumer wherein any Backflow Prevention Assembly required by this Article 7 is not installed, tested and maintained in compliance with this Article 7 and in a manner that is acceptable to the City or its Authorized Representative, or if it is found that the Backflow

Prevention Assembly has been removed or bypassed, or if an unprotected Cross-Connection exists.

(b) Water service to such premises shall not be restored until the Consumer is in compliance with this Article 7 to the satisfaction of the City or its Authorized Representative. (Ord. 909)

15-710. PENALTY. Any person, firm, partnership or corporation violating any provision of this Article 7 or any part thereof shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not to exceed five hundred dollars ($500.00) or by imprisonment not to exceed thirty (30) days, or by both such fine and imprisonment. (Ord. 909)

CHAPTER XVI. ZONING AND PLANNING

ARTICLE 1. CITY PLANNING COMMISSION/ BOARD OF ZONING APPEALS

16-101. COMMISSION RE-ESTABLISHMENT. There is hereby re-established the Maize City Planning Commission which is composed of seven members of which five members shall be residents of the city and two members shall reside outside the city, but within the designated planning area of the city which is within at least three miles of the corporate limits of the city. The planning commission was originally created by Ordinance No. 223 which was passed and approved on July 11, 1974. (Ord. 444; Code 2003)

16-102. MEMBERSHIP, TERMS, INTEREST AND COMPENSATION. The members of the planning commission shall be appointed by the mayor with the consent of the governing body at the first regular meeting of the governing body in May of each year and take office at the next regular meeting of the commission. All members shall be appointed for staggered terms of three years each. The appointments shall be so made that the terms of office of the members residing outside of the corporate limits of the city do not expire within the same year. By the re-establishment of the commission, all current members continue to serve their present terms of office. In case of death, incapacity, resignation or disqualification of any member, appointment to such a vacancy on the commission shall be made of the unexpired term of the member leaving the membership. Should any member have a conflict of interest, either directly or indirectly, in any matter coming before the commission, he or she shall be disqualified to discuss or vote on the matter. The governing body may adopt rules and regulations providing for removal of members of the commission. Members of the commission shall serve without compensation, but may be reimbursed for expenses actually incurred in the performance of their duties as deemed desirable by the governing body. (Ord. 444, Sec. 2; Code 2003)

16-103. MEETINGS, OFFICERS AND RECORDS. The members of the planning commission shall meet at such time and place as may be fixed in the commission's bylaws. The commission shall elect one member as chairperson and one member as vice-chairperson who shall serve one year and until their successors have been elected. A secretary shall also be elected who may or may not be a member of the commission. Special meetings may be called at any time by the chairperson or in the chairperson's absence by the vice-chairperson. The commission shall

adopt bylaws for the transaction of business and hearing procedures. All actions by the commission shall be taken by a majority vote of the entire membership of the commission; except that, a majority of the members present and voting at the hearing shall be required to recommend approval or denial of an amendment to the zoning regulations, a rezoning amendment or a special use permit. A proper record of all the proceedings of the commission shall be kept. The commission, from time to time, may establish subcommittees, advisory committees or technical committees to advise or assist in the activities of the commission. (Ord. 444, Sec. 3; Code 2003)

16-104. POWERS AND DUTIES. The governing body and planning commission shall have all the rights, powers and duties as authorized in K.S.A. 12-741 et seq., and amendments thereto, which are hereby incorporated by reference as part of this section and shall be given full force and effect as if the same had been fully set forth. The commission is hereby authorized to make or cause to be made, adopted and maintained a comprehensive plan for the city and any unincorporated territory lying outside of the city but within Sedgwick County in which the city is located, which in the opinion of the commission forms the total community of which the city is a part. The commission shall also cause to be prepared, adopted and maintained zoning and subdivision regulations on all land within the jurisdiction designated by the governing body. The comprehensive plan and zoning and subdivision regulations are subject to final approval of the governing body by ordinance. Periodically, the governing body may request the commission to undertake other assignments related to planning and land use regulations. (Ord. 444, Sec. 4; Code 2003)

16-105. BOARD OF ZONING APPEALS. The planning commission is hereby designated to also serve as the city's board of zoning appeals with all the powers and duties as provided for in K.S.A. 12-759. The board shall adopt rules in the form of bylaws for its operation which shall include hearing procedures. Such bylaws shall be subject to the approval of the governing body. Public records shall be kept of all official actions of the board which shall be maintained separately from those of the commission. The board shall keep minutes of its proceedings showing evidence presented, findings of fact, decisions and the vote upon each question or appeal. A majority of the members of the board present and voting at the hearing shall be required to decide any appeal. Subject to subsequent approval of the governing body, the board shall establish a scale of reasonable fees to be paid in advance by the appealing party. The present membership of the board of zoning appeals shall be disbanded effective December 31, 1991. (Ord. 444, Sec. 5; Code 2003)

16-106. BUDGET. The governing body shall approve a budget for the planning commission and make such allowances to the commission as it deems proper, including funds for the employment of such employees or consultants as the governing body may authorize and provide, and shall add the same to the general budget. Prior to the time that moneys are available under the budget, the governing body may appropriate moneys for such purposes from the general fund. The governing body may enter into such contracts as it deems necessary and may receive and expend funds and moneys from the state or federal government or from any other resource for such purposes. (Ord. 444, Sec. 6; Code 2003)

ARTICLE 2. ZONING REGULATIONS

16-201. ADOPTION OF ZONING CODE BY REFERENCE. The City of Maize, Kansas, Zoning Code, October 5th, 2006, Edition, prepared and recommended by the City of Maize, Kansas, Planning Commission on the 5th day of October, 2006, is by reference incorporated in and, by this publication made a part of the Code of the City of Maize, Kansas, as full as though set out at length herein, and is hereby adopted as the Zoning Code for the City of Maize, Kansas. Three copies of this Zoning Code attached to copies of Ordinance No. 715 and marked or stamped "Official Copy" as Incorporated by Ordinance No. 715 shall be filed with the city clerk and maintained by the city clerk for inspection by the public during the time that the city of Maize is open for business. (Ord. 715, Sec. 1)

ARTICLE 3. SUBDIVISION REGULATIONS

16-301. ADOPTION OF UNIFIED ZONING CODE BY REFERENCE. The City of Maize, Kansas, Zoning Subdivision Regulations, October 5, 2006, Edition, prepared and recommended by the City of Maize, Kansas, Planning Commission on the 5th day of October, 2006, are by reference incorporated in and, by this publication made a part of the Code of the City of Maize, Kansas, as fully as though set out at length herein, and are hereby adopted as the Zoning Subdivision Regulations attached to copies of Ordinance No. 716 that are marked or stamped "Official Copy" as Incorporated by Ordinance No. 716 shall be filed with the city clerk and maintained by the city clerk for inspection by the public during the time that the city of Maize is open for business. (Ord. 716, Sec. 1)

ARTICLE 4. FLOODPLAIN MANAGEMENT

16-401. DEFINITIONS. Unless specifically defined in this Section 16-401 of the Code, the words or phrases used in this Article shall be interpreted so as to give them the same meaning they have in common usage and to give this Article its most reasonable application.

(a) **"100-year flood"** *see* **"Base flood."**
(b) **"Accessory structure"** means a structure that is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.
(c) **"Administrator"** means the Federal Insurance Administrator.
(d) **"Agency"** means the Federal Emergency Management Agency (FEMA).
(e) **"Appeal"** means a request for review of the floodplain administrator's interpretation of any provision of this Article or a request for a variance.
(f) **"Area of special flood hazard"** or **"special flood hazard area"** is the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year.
(g) **"Article"** means the following sections of the Code of the City: 16-401, 16-402, 16-403, 16-404, 16-405, 16-406, 16-407, 16-408 and 16-409.

(h) **"Base flood"** means the flood having a one percent (1%) chance of being equaled or exceeded in any given year.

(i) **"Base flood elevation"** or **"BFE"** means the computed elevation to which floodwater is anticipated to rise during the base flood.

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

(k) **"Building"** *see* **"Structure."**

(l) **"Chief Engineer"** means the Chief Engineer of the division of water resources, Kansas Department of Agriculture.

(m) **"City"** means the City of Maize, Kansas.

(n) **"City engineer"** means the City Engineer for the City;

(o) **"Community"** means any state or area or political subdivision thereof, which has authority to adopt and enforce Floodplain Management Regulations for the areas within its jurisdiction.

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

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

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

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

(t) **"Flood"** or **"flooding"** means a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland waters; (2) the unusual and rapid accumulation or runoff of surface waters from any source; and (3) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood, or by some similarly unusual and unforeseeable event which results in flooding as defined above in item (1).

(u) **"Flood boundary and floodway map" or "FBFM"** means an official map of a community on which the administrator has delineated both special flood hazard areas and the designated regulatory floodway.

(v) **"Flood fringe"** means the area outside the floodway encroachment lines but still subject to inundation by the regulatory flood.

(w) **"Flood hazard boundary map"** or **"FHBM"** means an official map of a community, issued by the administrator, where the boundaries of the flood

areas having special flood hazards have been designated as (unnumbered or numbered) A zones.

(x) **"Flood insurance rate map"** or **"FIRM"** means an official map of a community, on which the administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

(y) **"Flood insurance study"** or **"FIS"** means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

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

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

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

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

(dd) **"Floodway"** or **"regulatory floodway"** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

(ee) **"Floodway encroachment lines"** means the lines marking the limits of floodways on federal, state and local floodplain maps.

(ff) **"Highest adjacent grade"** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

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

(hh) **"Lowest floor"** means the lowest floor of the lowest enclosed area, including Basement. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building's lowest floor, **provided** that

such enclosure is not built so as to render the structure in violation of the applicable floodproofing design requirements of this Article.

(ii) **"Manufactured home"** means a structure, transportable in one (1) or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term **"manufactured home"** does **not** include a **"recreational vehicle."**

(jj) **"Manufactured home park or subdivision"** means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

(kk) **"Map"** means the flood hazard boundary map (FHBM), flood insurance rate map (FIRM), or the flood boundary and floodway map (FBFM) for a community issued by the Federal Emergency Management Agency (FEMA).

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

(mm) **"Mean sea level"** means, for purposes of the National Flood Insurance Program (NFIP), the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's flood insurance rate map (FIRM) are referenced.

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

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

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

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

(rr) **"Person"** includes any individual or group of individuals, corporation, partnership, association, or any other entity, including federal, state, and local governments and agencies.

(ss) **"Principally above ground"** means that at least fifty-one percent (51%) of the actual cash value of the structure, less land value, is above ground.

(tt) **"Reasonably safe from flooding"** means base flood waters will not inundate the land or damage structures to be removed from the SFHA and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

(uu) **"Recreational vehicle"** means a vehicle which is (a) built on a single chassis; (b) four hundred (400) square feet or less when measured at the

largest horizontal projections; (c) designed to be self-propelled or permanently able to be towed by a light-duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(vv) **"Remedy a violation"** means to bring the structure or other development into compliance with federal, state, or local floodplain management regulations; or, if this is not possible, to reduce the impacts of its noncompliance.

(ww) **"Repetitive loss"** means flood-related damages sustained by a structure on two (2) separate occasions during a ten (10) year period for which the cost of repairs at the time of each such flood event, equals or exceeds twenty-five percent (25%) of the market value of the structure before the damage occurred.

(xx) **"Special flood hazard area"** *see* **"area of special flood hazard."**

(yy) **"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 one hundred eighty (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 substantial improvements, 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.

(zz) **"Structure"** means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. **"Structure,"** for insurance purposes, means a walled and roofed building, other than a gas or liquid storage tank that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

(aaa) **"Substantial damage"** means damage of any origin sustained by a structure whereby the cost of restoring the structure to pre-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred. **Substantial damage** includes repetitive loss buildings (*see* **"repetitive loss"**).

(bbb) **"Substantial improvements"** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) 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."

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

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

(eee) **"Water Surface Elevation"** means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplain. (Ord. 925)

16-402. RECITALS (STATUTORY AUTHORIZATION; FINDINGS OF FACT; PURPOSE).

(a) STATUTORY AUTHORIZATION.

The Legislature of the State of Kansas, in K.S.A. 12-741 *et seq.*, and specifically in K.S.A. 12-766, has delegated to local government units the responsibility to adopt floodplain management regulations designed to protect the health, safety and general welfare; and

Chapter 16, Article 4 of the Code of the City of Maize, Kansas, was approved in draft form by the Chief Engineer of the Division of Water Resources of the Kansas Department of Agriculture on February 20, 2012; and

The amendment to Chapter 16, Article 4 of the Code of the City of Maize, Kansas, was approved in draft form by the Chief Engineer of the Division of Water Resources of the Kansas Department of Agriculture on _____, 2016;

(b) FINDINGS OF FACT.

The special flood hazard areas of the City 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; and,

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; and

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 as follows:

1. 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. The

Base Flood is the flood that is estimated to have a one percent (1%) chance of being equaled or exceeded in any one year as delineated on the Federal Insurance Administrator's FIS, and illustrative materials dated December 22, 2016, as amended, and any future revisions thereto.

2. 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.

3. Computation of a floodway required to convey this flood without increasing flood heights more than one (1) foot at any point.

4. Delineation of floodway encroachment lines within which no development is permitted that would cause any increase in flood height; and

5. Delineation of floodway fringe, i.e., that area outside the floodway encroachment lines but still subject to inundation by the base flood.

(c) PURPOSE.

The purpose of this Article is to promote the public health, safety, and general welfare; to minimize those losses described in Section 16-401(b) of this Article; 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. 925)

16-403. GENERAL PROVISIONS.

(a) LANDS TO WHICH THIS ARTICLE APPLIES. This Article shall apply to all lands within the jurisdiction of the city identified as numbered and unnumbered A Zones, AE, AO and AH Zones on the index map dated December 22, 2016, if the flood insurance rate map (FIRM) as amended, and any future revisions 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 of the city or its duly designated representative under such safeguards and restrictions as the governing body of the city or the designated representative may reasonably impose for the promotion and maintenance of the general welfare and health of the inhabitants of the community, and as specifically noted in Section 16-405 of the Code of the city.

(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 manmade or natural cases, 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 thereunder.

(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. 925)

16-404. 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 16-403(a) of the Code. 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 city engineer of the city is hereby appointed to administer and implement the provisions of this Article.

(c) DUTIES AND RESPONSIBILITIES OF THE 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.

(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 a 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.

(9) Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority. (Ord. 723, Sec. 4)

16-405. PROVISIONS FOR FLOOD HAZARD REDUCTION.

(a) General Standards.

(1) No permit for floodplain development shall be granted for new construction, substantial improvement 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 on the FIRM 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 improvement, 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 (1) foot at any point within the community.

(4) All new construction, subdivision proposals, substantial improvement, 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 damage;

d. All electrical, heating, ventilation, plumbing, air-conditioning equipment and other service facilities be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

e. New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination from them during flooding; and

f. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, located within special flood hazard areas are required to assure that:

1. All such proposals are consistent with the need to minimize flood damage;

2. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage;

3. Adequate drainage is provided so as to reduce exposure to flood hazards; and

4. All proposals for development, including proposals for manufactured home parks and subdivisions, of greater than five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals base flood elevation data.

5. Storage, Material, and Equipment.

a. The storage or processing of materials within the special flood hazard area which are, in time of flooding, buoyant, flammable, explosive or could be injurious to human, animal or plant life are prohibited.

b. The storage of material or equipment may be allowed if not subject to major damage by floods, if firmly anchored to prevent flotation or if readily removable from the area within the time available after a flood warning.

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

a. If such structure, use or utility service is discontinued for twelve (12) consecutive months, any future use of the building shall conform to this article.

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

(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 16-405(a)(2) of the Code of the City, the following provisions are required:

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

b. Non-Residential Construction. New construction or substantial improvements of any commercial, industrial, or other non-residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, be dry floodproofed to a minimum of one (1) foot above the base flood elevation. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer. Such certification shall be provided to the floodplain administrator as set forth in Section 16-404(c)(7)(8) and (9) herein.

c. New Construction. Require, for all new construction and substantial improvement, that fully enclosed areas below the lowest floor used solely for parking of vehicles, building access, or storage in an area other than a basement and that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

(1) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided; and

(2) The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices, provided that they permit the automatic entry and exit of flood waters.

(c) MANUFACTURED HOMES.

(1) All manufactured homes to be placed within all unnumbered and numbered A zones, AE, and AH zones on the community's FIRM shall be required to be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement.

Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

(2) Require manufactured homes that are placed or substantially improved within unnumbered or numbered A zones, AE, and AH zones on the Community's FIRM on sites:

a. Outside of manufactured home parks or subdivisions;

b. In a new manufactured home park or subdivision;

c. In an expansion to and existing manufactured home park or subdivision; or

d. In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated a minimum of one (1) foot above the base flood elevation and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.

(3) Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within all unnumbered A zones, AE and AH zones on the community's FIRM, that are not subject to the provisions of Section 16-404(c)(2) of the Code of the City, be elevated so that either:

a. The lowest floor of the manufactured home is a minimum of one (1) foot above the base flood level; or

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

(d) FLOODWAY. Located within areas of special flood hazard established in Section 16-402(a) of the Code of the City are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters that carry debris and potential projectiles, the following provisions shall apply:

(1) The community shall select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood without increasing the water surface elevation of that flood more than one (1) foot at any point.

(2) The community shall prohibit any encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of base flood discharge.

(3) If Section 16-405(d)(2) is satisfied, all new construction and substantial improvement shall comply with all applicable flood hazard reduction provisions of Section 16-405 of the Code.

(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 16-405(a)(2) of the Code.

(e) RECREATIONAL VEHICLES. Require that recreational vehicles placed on sites within all unnumbered and numbered A Zones and AE Zones on the community's FIRM either:

1. be on the site for fewer than one hundred eighty (180) consecutive days;

2. be fully licensed and ready for highway use*; *or*

3. meet the permitting, elevation, and anchoring requirements of this Article for manufactured homes.

*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. (Ord. 925)

16-406. FLOODPLAIN MANAGEMENT VARIANCE PROCEDURES.

(a) MAIZE BOARD OF ZONING APPEALS. The Maize board of zoning appeals, as established by the city, shall hear and decide appeals and requests for variances from the floodplain management requirements of this Article.

(b) RESPONSIBILITY OF BOARD OF ZONING APPEALS. 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 16-406(a). The appeal board shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this 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 of the county 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 floodwaters, 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 improvement to be erected on a lot of one-half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (2) through (6) below have been fully considered. As the lot size increases beyond the one-half (1/2) 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, provided 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 for $100 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. (Ord. 723, Sec. 6)

16-407. PENALTIES FOR VIOLATION. Violation of the provisions of this Article or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with granting of variances) shall constitute a misdemeanor. Any person who violates this Article or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than One Thousand Dollars ($1,000.00), and, in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the city or other appropriate authority from taking such other lawful action as necessary to prevent or remedy any violation. (Ord. 723, Sec. 7)

16-408. 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 the official city newspaper, and at least twenty (20) days shall elapse between the date of 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. (Ord. 723, Sec. 8)

16-409. SEVERABILITY. Should any court declare any section, clause or provision of this Article 4 to be unconstitutional, such decision shall affect only such section, clause or provision so declared unconstitutional and shall not affect any other remaining section, clause or provision of this Article 4. (Ord. 723, Sec. 9)

ARTICLE 5. SIGN REGULATIONS

16-501. DEFINITIONS. In the construction of this Article, the following definitions shall apply:

(a) "City" shall mean the City of Maize, Kansas.

(b) "Lot" means land occupied or to be occupied by a building, or unit group of buildings, and accessory buildings, together with such yards and lot area as are required by the zoning code, and having its principal frontage upon a street.

(c) "Lot Line" means the lines bounding a lot.

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

(e) "Sign" means any words, numerals, figures, devices, designs or trademarks by which anything is made known, such as are used to designate an individual, a firm, profession, business, or a commodity and that are visible from any public street or the air.

(f) "Zoning Administrator" means the zoning administrator for the city.

(g) "Zoning Code" means duly adopted by ordinance with amendments thereto into the zoning code of the City.

(h) "Zoning District" or "District" means the various zoning districts as established in Article III of the zoning code. (Ord. 717, Sec. 1)

16-502. SIGN PERMITS. No sign, except for signs listed in Section 16-505, shall be constructed, erected, enlarged, relocated, or structurally altered until a permit for such sign has been obtained in accordance with the procedure set out in this Article 5. No permit for any sign shall be issued unless the sign complies with the regulations of this Article 5. All signs lawfully existing at the time of passage of these regulations may remain in use, including those in the status of legal nonconformance. The purpose of this Article is to safeguard the public use of the streets and the sidewalk area and to equitably enhance the visual environment of the city. (Ord. 717, Sec. 1)

16-503. CLASSIFICATION OF SIGNS.

(a) FUNCTIONAL TYPES.

(1) Advertising sign: a sign which directs attention to a business, commodity, service, or entertainment conducted, sold or offered at a location other than the premises on which the sign is located or to which it is affixed.

(2) Bulletin board sign: a sign that indicates the name of an institution or organization on whose premises it is located and which contains the name or names of the person connected with it, and announcements of persons, events or activities occurring at the institution. Such sign may also present a greeting or similar message.

(3) Business sign: a sign that directs attention to a business or profession conducted; or to a commodity or service sold, offered or manufactured, or an entertainment offered on the premises where the sign is located or to which it is affixed.

(4) Construction sign: a temporary sign indicating the names of designers and contractors involved in the construction of a project during the construction period and only on the premises on which the construction is taking place.

(5) Identification sign: a sign giving the name and address of a building, business, development, or establishment. Such signs may be wholly or partly devoted to a readily recognized symbol.

(6) Nameplate sign: a sign giving the name and/or address of the owner or occupant of a building or premises on which it is located, and where applicable, their professional status.

(7) Real estate sign: a sign pertaining to the sale or lease of the lot or tract of land on which the sign is located, or to the sale or lease of one (1) or more structures, or a portion thereof located thereon, including auction signs.

(b) STRUCTURAL TYPES.

(1) Awning, canopy or marquee sign: a sign that is mounted or painted on, or attached to, an awning, canopy or marquee that is otherwise permitted by these regulations. No such sign shall project further below than seven (7) feet from the ground level or beyond the physical dimensions of the awning, canopy or marquee.

(2) Ground sign: Any sign placed upon or supported by the ground independently of the principal building or structure on the property. A sign on accessory structures shall be considered a ground sign. Portable signs do not numerically count as ground signs for the district regulations.

(3) Pole sign: A sign that is mounted on a free-standing pole, the bottom edge of which sign is seven (7) feet or more above ground level.

(4) Projecting sign: A sign that is wholly or partly dependent upon a building for support and which projects more than twelve (12) inches from such building.

(5) Roof sign: A sign totally supported on the roof of a building that does not project more than twelve inches beyond the face of the structure.

(6) Temporary sign: A sign in the form of a banner, pennant, valance or advertising display constructed of fabric, cardboard, wallboard, or other lightweight materials, with or without a frame, intended for temporary display of not more than fifteen (15) days at a time.

(7) Wall sign: A sign fastened to or painted on a wall of a building or structure in such a manner that the wall becomes merely the supporting structure

or forms the background surface, and which does not project more than twelve (12) inches from such building. (Ord. 717, Sec. 1)

16-504. GENERAL STANDARDS.

(a) GROSS SURFACE AREA OF SIGN. The entire area within a single continuous perimeter enclosing the extreme limits of such sign, and in no case passing through or between any adjacent elements of same. Such perimeter shall not include any structural elements lying outside the limits of such sign which do not form an integral part of the display. When two (2) or more signs are located on a lot, the gross surface area of all signs on the lot shall not exceed the maximum gross surface per street frontage set by applicable sections of this Article 5, except as is provided by Section 16-504(b). Signs on interior lots that may be viewed from both directions of the adjacent street are considered to have a single gross surface area.

(b) CORNER AND THROUGH LOTS. On corner and through lots, each lot line that abuts a street or highway shall be considered a separate street frontage. On corner and through lots, restrictions that are phased in terms of the number of signs per lot shall be deemed to permit the allowable number of signs to face each street or highway that abuts the lot.

(c) HEIGHT OF SIGN. The maximum height of signs shall be measured from ground level at the base of or below the sign to the highest element of the sign and shall be determined for purposes of this Article 5 as independent from the maximum structure height for districts.

(d) BUILDING AND ELECTRICAL CODES APPLICABLE. All signs must conform to the structural design standards of any applicable building code. Wiring of all electrical signs must conform to any applicable electrical code.

(e) ILLUMINATED SIGN. Signs shall be shaded whenever necessary to avoid casting bright light upon property located in any residential district or upon any public street or park. Any brightly illuminated sign located on a lot adjacent to or across the street from any residential district, which is not otherwise shaded and visible from such residential district, shall not be illuminated between the hours of 11:00 p.m. and 7:00 a.m.

(f) FLASHING OR MOVING SIGNS. No flashing signs, rotating or moving signs, animated signs, signs with moving lights, or signs which create the illusion of movement shall be permitted in any residential district.

(g) METAL AND NON-METAL SIGNS. Signs constructed of metal and illuminated by any means requiring internal wiring or electrically wired accessory fixtures attached to a metal sign shall maintain a free clearance to a grade of eight (8) feet. Accessory lighting fixtures attached to a non-metal frame sign shall maintain a clearance of nine (9) feet to grade. Metal or non-metal signs, whether illuminated or not, shall maintain clearance of at least seven (7) feet underneath awnings, canopies or marquees.

(h) ACCESS WAY OR WINDOW. No sign shall block any access way or window required by any applicable building, housing, fire or other codes or regulations.

(i) SIGNS ON TREES OR UTILITY POLES. No private sign shall be attached to a tree or utility pole whether on public or private property.

(j) TRAFFIC SAFETY.

(1) No sign shall be maintained at any location where, by reason of its position, size, shape or color, it may obstruct, impair, obscure, interfere with the

view of, or be confused with, any traffic control sign, signal or device, or where it may interfere with, mislead or confuse traffic.

(2) No sign shall be located in any vision triangle as defined in the subdivision regulations, except official traffic signs and signs mounted eight (8) feet or more above the ground whose supports, not exceeding two (2), do not exceed twelve (12) inches at the widest dimension and, thus, do not constitute an obstruction.

(k) LOCATION. No sign or structure thereof shall be permitted on public right-of-way or public easement, except temporary real estate and garage sale signs may be placed on the public right-of-way with the approval of the adjacent landowner, to provide direction to the property; provided, however, that such signs do not obstruct traffic visibility. Such signs may only be displayed during an open house or a garage sale and must be removed at the conclusion of such open house or sale. No sign shall be permitted to project over public right-of-way or public easement, except with the approval of the board of zoning appeals as a conditioned use, or as a permitted use when the lowest part of such sign is at least seven (7) feet above the sidewalk area. (See Section 16-504(l) for portable signs; Section 16-505(a)(5) for garage sale signs; and Section 16-505(b)(5) for real estate signs.

(l) PORTABLE SIGNS. Notwithstanding any other provisions of these regulations and, in particular this Article 5, the following provisions apply to use of portable signs:

(1) A portable sign is defined as a temporary on-site sign designed in such a manner as to be readily movable and not permanently attached to the premises, such as A-frame, trailer signs, signs placed on vehicles, beacon lights and other similar signs. Removal of any wheels shall not change the definition of being readily movable. Any such sign shall not exceed a height of ten (10) feet above grade level nor sixty (60) square feet in gross surface area.

(2) All the general standards of Sections 16-504(a) through (k) are applicable to portable signs, except that in Section 16-504(k) such signs may project over or be located on public easements, but not the public street right-of-way. No such signs shall be placed on the roof of structures.

(3) Whereas portable signs are not required to set back any minimum distance from lot lines in any district, the zoning administrator shall, in his discretion, strictly enforce the traffic safety provisions of Section 16-504(j)(1), especially at corner intersections and driveway entrances and exits.

(4) In all districts, except residential districts, portable signs are permitted; however, any such sign shall not be located closer than fifty (50) feet to another such sign when measured along the frontage whether the latter is located on the same or another lot, except that each business firm shall be permitted at least one (1) such sign notwithstanding the fifty (50) foot minimum spacing standard.

(5) In all residential districts, only portable signs are permitted which limit their messages to the following subjects:

(a) Announcements of special occasions or activities of nonprofit organizations such as churches and fraternal and service clubs.

(b) Announcements related to personal or family events such as “Happy Birthday” and the like.

The above signs are limited to a display period of not more than fifteen (15) days for any one announcement, with the gross surface area not to exceed

sixty (60) square feet and only one (1) sign at a time permitted on the premises of the party making the announcement.

(6) In addition to the provisions of Sections 16-504(d) and (e), strobe light sources or flashing bulbs or signs that create the illusion of movement shall not be permitted on portable signs in any district. Electrified portable signs shall not be connected to any electrical power source except during the hours when the business, office or institution is open. Electrical lines shall not be permitted to lie on the ground where vehicular traffic or pedestrian passage is allowed and the use of extension cords for portable signs is prohibited. Ground Fault Circuit Interrupters (G.F.C.I.) are required on all electrified signs.

(7) A permit for each portable sign shall be obtained for each thirty (30) day period or part thereof when the sign remains on the lot. Annual permits may be obtained for the use of such signs at one (1) or more locations during the year. All portable signs shall bear an identification marker to indicate the owner's name and some system of identifying the individual sign, e.g., by number.

(8) Any unauthorized portable sign placed on public property, including the public street right-of-way, is declared to be a public nuisance and be the cause of its removal and impoundment without notice. If not redeemed within thirty (30) days by the owner paying a service charge, the city may dispose of the sign in any manner deemed appropriate. The zoning administrator may revoke the permit for any sign deemed to be in violation of this Section 16-504(l) or of any condition on which the permit was based, and order its removal within a reasonable period consistent with public safety.

(m) DAMAGED OR UNSAFE SIGNS. The zoning administrator shall require the immediate repair or removal of any conforming or nonconforming sign or sign structure that has been damaged or deteriorated so as to become a public hazard. Such a sign or sign structure may be restored to its original condition without obtaining a zoning permit, unless the sign is replaced and, thus, conform to the current regulations. (Ord. 717, Sec. 1)

16-505. EXEMPTIONS.

(a) The following signs shall be exempt from the requirements of this Article:

(1) Signs of a duly constituted governmental body, including school districts, such as traffic or similar regulatory devices, legal notices, warnings at railroad crossings, identification purposes, and other instructional or regulatory signs having to do with health, safety, parking, swimming, dumping, etc.

(2) Flags or emblems of governmental or political, civic, philanthropic, educational or religious organizations, when displayed on private property.

(3) Small signs, not exceeding five (5) square feet in area, displayed on private property for the convenience of the public, including signs to identify entrance and exit drives, parking areas, one-way drives, restrooms, freight entrances and the like.

(4) Address numerals and other signs required to be maintained by law, rule or regulations; provided, that the content and size of a sign does not exceed such requirements.

(5) Garage sale signs not exceeding four (4) square feet in gross surface area. (See Section 16-504(k) for location on right-of-way.)

(6) Memorial signs which are displayed on private property.

(7) Scoreboards in athletic fields or stadiums.

(8) Political campaign signs, not exceeding eight (8) square feet in gross surface area, which are displayed on private property and not otherwise in the public right-of-way. Such signs must be removed within forty-eight (48) hours after a candidate is elected to office or is eliminated from further participation in the election as a candidate, with similar provisions for bond issues and other ballot issues. Such signs may also be displayed as advertising signs where permitted by Section 16-506.

(9) Ideological signs such as may pertain to religious or political expressions or personal beliefs when located on private property of the proponent and not otherwise in a public right-of-way, a sight obstruction in a vision triangle or on public property or structures such as utility poles.

(b) The following signs are exempt from the permit requirements of Section 16-502, but shall comply with all of the other regulations imposed by this Article:

(1) Nameplate signs not exceeding two (2) square feet in gross surface area accessory to a residential building, including all types of manufactured and mobile homes.

(2) Identification signs not exceeding forty (40) square feet in gross surface area accessory to a multiple family dwelling.

(3) Bulletin board signs not exceeding forty (40) square feet in gross surface area accessory to a church, school or public or nonprofit institution.

(4) Business signs when located on property used for agricultural purposes and pertaining to the sale of agricultural products produced on the premises.

(5) Real estate signs not exceeding six (6) square feet in gross surface area and which pertain to the sale or lease of the lot or tract or structure on which the sign is located, except for the provision of Section 16-502(k). (See Section 16-503(a)(7) for auction signs.)

(6) Temporary signs that do not exceed twenty (20) square feet in gross surface area and are displayed not more than four (4) times per calendar year. (Ord. 717, Sec. 1)

16-506. DISTRICT REGULATIONS.

(a) The following type signs are permitted in all residential zoned districts.

(1) Functional types permitted:

a. bulletin board signs;
b. business signs pertaining to home occupations;
c. construction signs;
d. identification signs;
e. nameplate signs;
f. real estate signs.

(2) Structural types permitted:

a. ground signs;
b. pole signs;
c. wall signs;
d. business signs pertaining to home occupation shall be affixed flush to the wall of a building.

(3) Number of signs permitted: One (1) of each functional type per lot.

(4) Maximum gross surface area:

a. Bulletin board and identification signs: Sixteen (16) square feet in SF5 districts and thirty-two (32) square feet in TF3 through B Multi-family districts.

b. Business signs pertaining to a home occupation only: Two (2) square feet or the minimum required by state statutes.

c. Construction signs: Forty (40) square feet.

d. Nameplate signs: Two (2) square feet

e. Real estate signs: Six (6) square feet per lot; provided, that one (1) sign not more than one hundred (100) square feet in area announcing the sale of lots and/or houses in a subdivision may be located on such development. Such sign shall be removed when seventy-five percent (75%) of the lots in the subdivision have been sold.

(5) Maximum height: Fifteen (15) feet; provided, that signs associated with one- and two-family dwellings and all types of manufactured and mobile homes shall not be located at a height greater than eight (8) feet above ground floor elevation.

(6) Required setback: Ten (10) feet from the front lot line, except temporary real estate and garage sale signs, and none from the side yard setbacks.

(7) Illumination: No sign shall be illuminated, except that bulletin board and identification signs may be indirectly illuminated with incandescent or fluorescent light.

(b) The following signs are permitted in neighbor office through office warehouse zoned districts.

(1) Functional types permitted: Any type listed in Section 16-503(a), including advertising signs when approved as a conditional use by the board of zoning appeals.

(2) Structural types permitted: Any type listed in Section 16-503(b).

(3) Number of signs permitted:

a. Ground and pole signs: One (1) of each functional type per lot, plus advertising signs as permitted by Section 16-506(b)(1).

b. Other structural types permitted: No limitation.

(4) Maximum gross surface area: Three (3) square feet of sign area for each one (1) foot lineal street frontage, plus advertising signs as permitted by Section 16-506(b)(1).

(5) Maximum height: Thirty (30) feet. A higher sign may be permitted for businesses serving the motor public on K-96 by application to the board of zoning appeals for a conditional use. The board should consider the height, location, and effect of such a sign in relation to any adjacent residential districts.

(6) Required setbacks: no minimum required.

(7) Illumination: Illuminated signs shall be permitted.

(c) B-2. The following signs are permitted in General Commercial through Central Business zoned districts:

(1) Functional types permitted: any type listed in Section 16-503(a), except advertising signs.

(2) Structural types permitted: any type listed in Section 16-503(b), except roof signs.

(3) Number of signs permitted:

a. Ground and pole signs: One (1) of each functional type per lot.

b. Other structural types permitted: no limitation.

(4) Maximum gross surface area: One (1) square foot of sign area for each one (1) foot lineal street frontage; provided, no single sign shall exceed a gross surface area of one hundred (100) square feet.

(5) Maximum Height: Thirty (30) feet; provided, no sign shall protrude above the roofline of the principal structure except for automobile service stations.

(6) Required setback: no minimum required.

(7) Illumination: Illuminated signs shall be permitted.

(d) I-1. The following signs are permitted in Light Industrial and General Industrial zoned districts:

(1) Functional types permitted: any types listed in Section 16-503(a).

(2) Structural types permitted: any types listed in Section 16-503(b).

(3) Number of signs permitted:

a. Ground and pole signs: One (1) of each functional type per lot, plus advertising signs.

b. Other structural types permitted: No limitation.

(4) Maximum gross surface area: Three (3) square feet of sign area for each one (1) foot lineal street frontage; provided, no single sign shall exceed a gross surface area of three hundred (300) square feet.

(5) Maximum Height:

a. Roof sign: Five (5) feet above the highest point of the roofline on which such sign is located.

b. All other signs: Thirty (30) feet.

(6) Required setbacks: No minimum required.

(7) Illumination: Illuminated signs shall be permitted.

(e) UNLAWFUL. It shall be unlawful for any person to construct or maintain a sign in a zoning district that does not permit such sign.
(Ord. 717, Sec. 1)

16-507. PERMIT APPLICATION AND ISSUANCE.

(a) Application for a sign permit shall be made to the Zoning Administrator upon forms provided by the City, and shall be accompanied by such information as may be required to assure compliance with appropriate regulations. This may include drawings indicating the sign legend or advertising message, locations, dimensions, construction and structural design. If the zoning administrator deems it necessary, the zoning administrator may require that a licensed engineer furnish information concerning structural design of the sign and the proposed attachments.

(b) The zoning administrator shall issue a permit for a sign when an application therefor has been made and the sign complies with all applicable provisions of this Article 5.
(Ord. 717, Sec. 1)

16-508. PERMIT FEES. A non-refundable permit fee as set forth in this Section must be paid to the city at the time an application for a sign permit is applied for. The permit fees are as follows:

(a) Permanent signs: A base fee of Twenty-five Dollars ($25.00) per sign plus Six Dollars ($6.00) per each ten (10) square feet of sign.

(b) Temporary signs.

(1) Twenty Dollars ($20.00) for a temporary plastic yard sign.

(2) Fifty Dollars ($50.00) annual permit for a portable sign or Five Dollars ($5.00) per month for remaining months in calendar year, not less than Ten Dollars ($10.00).

(Ord. 717, Sec. 1)

16-509. SEVERABILITY. If any provision, clause, sentence or paragraph of this Article 5 or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the other provisions of this Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are declared to be severable. (Ord. 717, Sec. 1)

16-510. VIOLATIONS AND PENALTIES. Any person who shall be convicted in the municipal court of violating any provision of this Article 5 shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not more than One Thousand Dollars ($1,000.00) or imprisonment of not more than thirty (30) days, or both such fine and imprisonment. Each day that any violation of this Article occurs, it shall constitute a separate offense and shall be punishable thereafter as a separate violation. (Ord. 717, Sec. 1)

ARTICLE 6. COMPREHENSIVE PLAN

16-601. ADOPTION OF COMPREHENSIVE PLAN. The City of Maize, Kansas, Comprehensive Plan, dated the 5th day of October, 2006, and heretofore adopted by the City of Maize, Kansas, Planning Commission ("Planning Commission") by Resolution dated the 5th day of October, 2006, is approved and adopted by the governing body of the City of Maize, Kansas (the "City") as the official comprehensive plan of the City. An attested copy of the comprehensive plan shall be sent to all other taxing subdivisions in the city's planning area who request a copy of the comprehensive plan. An attested copy shall also be kept on file in the official city records by the clerk of the city for purposes of the same being available for inspection and review by the public. (Ord. 714, Sec. 1)

16-602. PURPOSE. The comprehensive plan shall constitute the basis or guide for public action to ensure a coordinated and harmonious development or redevelopment which will best promote the health, safety, morals, order, convenience, prosperity and general welfare, as well as wise and efficient expenditure of public funds. (Ord. 714, Sec. 2)

16-603. REVIEW. At least once each year, the Planning Commission shall review or reconsider the comprehensive plan and make proposed amendments, extensions or adoption of the same. (Ord. 714, Sec. 3)

CHAPTER XVII. LANDSCAPING

Article 1. GENERAL PROVISIONS

ARTICLE 1. GENERAL PROVISIONS

17-101. PURPOSE. The purpose of this chapter is to enhance the attractiveness of the community through the establishment of landscape requirements for urban development projects. The standards herein established shall apply to all new development and certain levels of redevelopment, renovation and/or additions within the corporate boundaries of the city, except single-family residences and duplexes. Properly established and maintained, landscaping can improve the livability of neighborhoods, enhance the appearance of commercial areas, increase property values, improve relationships between non-compatible uses, screen undesirable views, soften the effects of structural features, and contribute to a positive overall image of the community. (Ord. 749, Sec. 1)

17-102. DEFINITIONS. As used in this chapter:

"Average lot depth" means the horizontal distance between the front and rear lot lines measured along the median between the side lot lines. For multiple-frontage lots, the average lot depth measured from each street shall be divided by the total number of streets to obtain one average depth for the lot.

"Berm" means an earthen mound designed to provide visual interest, screen undesirable views and/or decrease noise.

"Conifer tree" means an evergreen tree, usually of the pine, spruce or juniper genus, bearing cones and generally used for its screening qualities. For purposes of these regulations, a conifer shall be considered a shade tree if it is at least five feet tall when planted and is one of the evergreen trees listed in the Kansas Urban Forestry Council's publication titled "Preferred Tree Species for South Central Kansas" and will obtain a mature height of twenty feet or greater.

"Deciduous" means trees and shrubs that shed their leaves annually.

"Evergreen" means trees and shrubs that do not shed their leaves annually.

"Ground cover" means living landscape materials or low-growing plants, other than turf grasses, installed in such a manner so as to provide a continuous cover of the ground surface, and which upon maturity normally reach the average maximum height of not greater than twenty-four inches.

"Landscape materials" means living plants, such as trees, shrubs, vines, ground cover, flowers and grasses. It may include such nonliving features as bark, wood chips, rock, brick, stone or similar materials (monolithic paving not included) and structural and/or decorative features such as fountains, pools, gazebos, walls,

fences, benches, light fixtures, sculpture pieces, and earthen berms, terraces and mounds.

"Landscaping" means the product of careful planning and installation using any combination of landscape materials subject to the limitations set out in this chapter which results in the softening of building lines, the modification of environmental extremes, the definition of separate functional spaces and the presentation of a pleasing visual effect on the premises.

"Mulch" means nonliving organic, inorganic or synthetic materials customarily used in landscape design and maintenance to retard soil erosion, retain moisture, insulate soil against temperature extremes, suppress weeds, deter soil compaction and provide visual interest.

"Ornamental tree" means a deciduous tree possessing qualities such as flowers or fruit, attractive foliage, bark or shape, with a mature height generally under forty feet. Trees listed in the Kansas Urban Forestry Council's publication titled "Preferred Tree Species for South Central Kansas" as small deciduous trees and medium deciduous trees will be classified as ornamental trees for purposes of administering these regulations.

"Parking lot" means an area not within a building or other structure where motor vehicles may be stored for the purpose of temporary, daily or overnight off-street parking. This definition shall include vehicle queuing or holding areas such as at car washes, drive-up windows, gasoline pumps, etc., but shall not include vehicle storage and display area for new and used vehicle sales lots or parking for one-family and two-family dwellings.

"Shade tree" means usually a deciduous tree – rarely an evergreen – planted primarily for its high crown of foliage or overhead canopy. Trees listed in the Kansas Urban Forestry Council's publication titled "Preferred Tree Species for South Central Kansas" as large deciduous trees and very large deciduous trees will be classified as shade trees for purposes of administering these regulations.

"Shrub" means a deciduous or evergreen woody plant smaller than a tree and larger than ground cover, consisting of multiple stems from the ground or small branches near the ground, which attains a height of twenty-four inches or more.

"Site specific," as used in this chapter, means that the plant material chosen to be used on a site is particularly well suited to withstand the physical growing conditions which are normal for that location.

"Street frontage" means the length of the property abutting on one side of a street measured along the dividing line between the property and the street.

"Street wall" means any building wall facing a street.

"Street wall line" means a line that extends from the building parallel to the street wall until it intersects a side or rear lot line or a wall line of another building.

"Street yard" means the area of a lot which lies between the property line abutting a street and the street wall line of the building. If a building has a rounded street wall or if the building is on an irregular-shaped lot, wall lines extending parallel to the street wall from the points of the wall closest to the side property lines shall be used to define the limits of the street yard.

"Xeriscape" means water conservation through creative landscaping which applies the following seven principles: (1) plan and design carefully; (2) improve the soil water-holding capacity through the use of soil amendments; (3) use efficient irrigation methods and equipment; (4) select site-specific, hardy plant materials, and then group all plants according to their sun and moisture needs; (5) use turf grass appropriately in locations where it provides functional benefits; (6) mulch; (7) give appropriate and timely maintenance.

"Zoning lot" means a parcel of land that is designated by its owner or developer at the time of applying for an occupancy certificate as a tract, all of which is to be used, developed or built upon as a unit under single ownership. Such lot may consist of (1) a single lot of record; or, (2) a portion of a lot of record; or, (3) a combination of complete lots of record, complete lots and portions of lots of record, or portions of lots of record.
(Ord. 749, Sec. 1)

17-103. REQUIRED LANDSCAPED STREET YARD.

(a) The minimum amount of landscaped street yard for all uses except single-family and two-family which are adjacent to at-grade expressway or freeway frontage roads, arterial or collector streets designated in the city's transportation plan, or which are adjacent to local streets when across from residential districts, except as provided for in subsection (a)(8) of this section, shall be as follows:

(1) On a zoning lot with an average lot depth of one hundred seventy-five feet or less – eight square feet of landscaped street yard per lineal foot of street frontage.

(2) On a zoning lot with an average lot depth of 175.01 feet to two hundred seventy-five feet – ten square feet of landscaped street yard per lineal foot of street frontage.

(3) On a zoning lot with an average lot depth of 275.01 to three hundred seventy-five feet – fifteen square feet of landscaped street yard per lineal foot of street frontage.

(4) On a zoning lot with an average lot depth of more than three hundred seventy-five feet – twenty square feet of landscaped street yard per lineal foot of street frontage.

(5) The square footage per lineal foot of street frontage may be reduced twenty percent if the minimum planting size of materials specified in subsections (c)(3) and (c)(4) of this section is increased by one hundred percent or more.

(6) Plants, installation and maintenance techniques meeting the principles of Xeriscape shall be utilized for landscaping required by these regulations.

(7) On a zoning lot with frontage on two or more streets, each of which requires a landscaped street yard, the landscaped area requirement shall be

based on the sum of the street frontages, less the greatest perpendicular distance between the property line abutting a street and the street wall line, multiplied by the factor based on average lot depth as referenced above. On multiple-frontage lots where the use of the average lot depth, as defined in Section 17-102, would require more landscaped street yard than would be required if each frontage were calculated individually, the lesser of the calculations may be used. Although the required amount of landscaped street yard does not have to be equally distributed to the various street frontages, there shall be no less than twenty percent of the total required landscaping within any street yard.

(8) On collector streets with industrial zoning on both sides of the street, the requirement for a landscaped street yard shall be automatically waived.

(b) The minimum number of trees within street yards is one shade tree or two ornamental trees for every five hundred square feet or fraction thereof of the required minimum landscaped street yard.

(c) Design standards for landscaped street yards and required trees:

(1) Trees shall be located in planter areas of sufficient size and design to accommodate the growth of trees and protected to prevent damage to the trees by vehicles. A minimum of twenty-five feet of permeable ground surface area per tree is recommended.

(2) The required trees may be clustered along a particular façade or boundary of the project. Trees need not be spaced evenly, although it is permissible to do so, provided adequate distance is maintained between individual specimens. Minimum spacing for ornamental trees is recommended to be fifteen feet and forty or more feet for shade trees. The trees shall be selected from a list of tree types that are commonly known to grow in the Wichita area and are listed in the publication prepared by the Kansas Urban Forestry Council and titled "Preferred Tree Species for South Central Kansas," available from the Sedgwick County Extension Office. Trees not listed but which are substantially equivalent may be used if first approved by the Planning Administrator.

(3) The minimum size at the time of planting of required trees shall be as follows:

a. shade trees – two-inch or greater caliper measured at a height of six inches above the ground;

b. ornamental trees – one-inch or greater caliper measured six inches above the ground;

c. conifer trees – five feet or more in height.

(4) Shrubbery may be substituted for up to one-third of the required trees at the rate of ten shrubs for one required shade tree. Substitute shrubbery shall be of a site-specific type that attains a mature height of at least two feet and shall be no less than two-gallon container size at the time of planting.

(5) The required trees (shade trees or ornamental trees but not conifers) and/or shrubs may be located in part or in total in adjacent public right-of-way area if approved as to location by the City Engineer and approved as to type by the Planning Administrator and no conflicts exist with utility locations. Trees and shrubs should be located no closer than six feet to the curb line of adjacent streets. Trees should also be located no closer than six feet to either side of a sidewalk unless root barrier materials are installed at the sidewalk on the tree side.

(6) Shrubbery, walls and fences which are twenty-five percent or more opaque in design shall be constructed no higher than three feet above the finished grade in a required landscaped street yard when located within a right

triangle, the sides of which are formed by a line extending twenty-five feet toward the shrubbery, wall or fence from any vehicular access point along the street right-of-way line and a line extending six feet away from and perpendicular to the street right-of-way line from the same access point. Shrubbery, walls or fences located near the intersection of streets shall maintain sight visibility clearance as determined by the City Engineer. All opaque fences shall be located toward the private property side of required landscaped street yards along street right-of-way to maintain a landscaped appearance along the street.

(7) The intent of the landscaped street yard is to visually soften the masses of building and parking lots and to separate building areas from parking areas through the use of plantings. Paved plazas may be credited to a maximum of fifty percent of required street yard landscaping area if such plazas have trees and/or shrubbery which provide(s) visual relief to those building elevations forming the major public views of the project. Paved walkways and bike paths connecting public sidewalks to buildings located on private property within a landscaped street yard may also be credited to a maximum of fifty percent of the required landscaped street yard.

(Ord. 749, Sec. 1)

17-104. REQUIRED BUFFERS.

(a) Buffers between nonresidential and residential development:

(1) Where required. Such a buffer is required along the common property line of any nonresidential project in any zoning district where such project is adjacent to a residential district.

(2) Design standards. There shall be a minimum of one shade tree or two ornamental trees for every forty feet or fraction thereof of lot line abutting the residential district. The trees may be irregularly spaced but shall be within fifteen feet of the property line common to the residential district. If utility and/or drainage easements occupy this fifteen-foot perimeter area, the trees may be located outside the easements. Each tree shall be in a planting area having a minimum permeable ground surface of twenty-five square feet. The minimum size at the time of planting of required trees shall be as follows:

a. shade trees – two-inch or greater caliper measured at a height of six inches above the ground;

b. ornamental trees – one-inch or greater caliper measured at a height of six inches above the ground;

c. conifer trees – five feet or more in height.

These trees shall be in addition to any screening required by the City of Maize Zoning Code.

(b) Buffers between adjacent multi-family residential or manufactured home parks and single-family/two-family residential projects:

(1) Where required. Such a buffer is required along the side and/or rear lot line of any multi-family project (a project with three or more dwelling units in one building) or manufactured home park in any zoning district where such a project is adjacent to a single-family or two-family zoning district.

(2) Design standards. The required buffer shall be a minimum of fifteen feet in width. There shall be a minimum of one shade tree or two ornamental trees and five shrubs for every thirty feet of the length of the buffer. A minimum of one-third of the trees and shrubs shall be evergreen. The minimum size at the time of planting of required trees shall be as follows:

a. shade trees – two-inch or greater caliper measured at a height of six inches above the ground;

b. ornamental trees – one-inch or greater caliper measured at a height of six inches above the ground;

c. conifer trees – five feet or more in height.

The minimum size of shrubs shall be two-gallon containers. The width of the required buffer may be reduced to twelve feet if the minimum planting size of materials is increased by one hundred percent or more. Parking shall be screened from adjacent residential areas in accordance with the parking lot screening requirements in Section 17-105. Required screening may be located within the buffer area. Parking may not be located within the buffer area.
(Ord. 749, Sec. 1)

17-105. PARKING LOT SCREENING AND LANDSCAPING.

(a) Required screening. All new parking lots or additions to parking lots shall be continuously screened from view from adjacent residential districts and certain types of streets when within one hundred fifty feet thereof (measured from the property line adjacent to the street), except at points of vehicular and/or pedestrian ingress and egress, to a minimum height of three feet above the parking surface by the use of berms and/or plantings, with the following exemptions: 1) open parking lots in one-family and two-family residential projects in any zoning district; and 2) open parking lots in industrial districts located on collector streets with industrial zoning on both sides of the street.

Walls and fences may be used in combination with berms and plantings but may not be used as the sole means of screening a parking lot. This requirement shall apply to all at-grade expressway, freeway, arterial and collector street frontages and to all local streets when parking is across from residential zoning districts. On corner lots where parking is within one-hundred fifty feet of two or more streets but not all the street frontages require parking lot screening (due either to type of street or zoning district across the street), the parking lot screening shall wrap around the corner of the lot from the frontage which does require screening for a distance of not less than one hundred feet.

(1) Walls or fences used in combination with berms and/or plantings shall avoid a blank and monotonous appearance by such measures as architectural articulation and placement of vines, shrubs and/or trees.

(2) All screening and landscape elements may be located within and be substituted for required landscape buffers and street yards, provided sight clearances are maintained as determined by the City Engineer and provided further that the minimum number of trees otherwise required in the yard or buffer are established in the street yard. Shrubs used in meeting screening requirements shall not be substituted for required trees.

(3) Where walls and fences are to be combined with vines and shrubs to create the screening effect, they should be located in a planting strip with a minimum width of no less than three feet from the edge of any adjacent sidewalk. Landscape materials shall be located on the public right-of-way side of the wall or fence.

(4) Where shrubs, trees and other landscape materials are used exclusively to create the screening effect, they should be located in a planting strip with a minimum width of no less than five feet from the edge of the parking lot paving to the edge of any adjacent sidewalk.

(5) Where berms are to be combined with trees, shrubs, walls or fences to create the screening effect, they should be located in a planting strip with a minimum width of no less than ten feet from the edge of the parking lot paving to the edge of any adjacent sidewalk.

(6) Planting strips associated with parking lot screening may be located in whole or in part on public street right-of-way on the basis of an approved landscape plan, provided adequate public right-of-way exists, there is no less than fourteen and one-half feet of right-of-way between the property line and the curb, no conflict exists with public utilities, and the location of berms, walks, irrigation fixtures and other permanent landscape features is subject to a minor street privilege granted through the office of the City Engineer.

(7) The minimum size at the time of installation of plant materials used for parking lot screening shall be as follows:

a. shade trees – two-inch or greater caliper measured at a height of six inches above the ground;

b. ornamental trees – one-inch or greater caliper measured six inches above the ground;

c. conifer trees – five feet or more in height;

d. shrubs – eighteen-inch height. Shrubs used for parking lot screening shall be expected to obtain a height of at least thirty-six inches within the third year after planting. Spacing between shrubs will depend upon the type of shrub but shall be close enough to achieve a visual screen when the plants reach maturity.

(8) Evergreen and/or deciduous plant materials may be used, provided a solid screening effect is maintained on at least two-thirds of the treated frontage during all seasons of the year.

(9) All screening materials and landscape features shall be protected from vehicular damage or encroachment by appropriately located curbs or wheel stops.

(b) Required landscaping. All new parking lots or additions to parking lots which create twenty or more spaces and which are required to provide screening in accordance with subsection (a) of this section shall also be required to provide at least one shade tree or two ornamental trees for each twenty parking spaces or fraction thereof over twenty. Vehicle queuing and holding areas shall not be counted when determining the number of spaces in a lot. Up to one-half of all trees required by the landscaped street yard calculations may be used to satisfy these parking lot landscaping requirements. The trees shall be located within and around the parking lot to enhance the appearance of the lot and to reduce the deleterious effect of large expanses of paved areas. In parking lots containing fifty spaces or more with two or more drive aisles and three or more parking bays, all of which are contiguous, at least one-half of the required trees shall be planted in interior planting islands with each tree having a minimum permeable ground surface area of twenty-five square feet. Trees shall be protected from possible damage caused by vehicle bumpers by the use of bumper blocks, raised curbs or other protective means. Whenever this requirement results in loss of potential spaces to the extent that the number of parking spaces required by the zoning code cannot then be provided, an adjustment in the number of parking spaces shall automatically be granted without having to receive board of zoning appeals' approval. The minimum acceptable tree size at the time of installation shall be a

two-inch caliper for a shade three and a one-inch caliper for an ornamental tree, both measured at a height of six inches above the ground.
(Ord. 749, Sec. 1)

17-106. PERCENTAGE IN LIVING MATERIALS. Unless otherwise specified, required landscape area shall consist of a minimum of fifty-five percent in ground surface covering by living grass or other plant materials. The foliage crown of trees that may extend over monolithic paved surfaces beyond the required landscaped area or over nonliving surfaces within the required landscaped area shall not be used in the fifty-five percent or other required percentage calculation. The remaining forty-five percent of the required landscape area may be covered with bark, wood chips, rock, bricks, stone, or similar materials (monolithic paving not included). An effective weed barrier shall be required in nonliving landscaped areas. The use of nonliving materials in required landscape areas for other than mulching around trees, shrubs and planting beds shall be on the basis of a landscape plan submitted for approval to the planning department. (Ord. 749, Sec. 1)

17-107. OTHER LANDSCAPE REGULATIONS.

(a) Landscaping shall not conflict with the traffic visibility requirements as determined by the City Engineer.

(b) The use of artificial trees, shrubs, vines, turf, or other plants as an outside landscape material will not be allowed.

(c) The planting of Ulmus pumilia (Siberian elm) in required landscape areas will not be allowed.

(d) The planting of female or cotton-bearing cottonwood trees will not be allowed in any required landscape area.

(e) Clumped or multi-trunked trees, where used instead of single-trunk trees, shall be credited as only one of the required trees.

(f) Landscaping shall not interfere with the general function, safety or accessibility of any gas, electric, water, sewer, telephone, or other utility easement. Landscaping shall be limited to an eight-inch mature height within three feet of a fire hydrant, traffic sign, traffic signal or utility structure.

(g) The existing indigenous vegetation on a site is encouraged to be retained in a development project and may be credited toward required landscaping in this chapter, provided this vegetation is adequately protected during construction to ensure long-term survival.

(h) Where calculation of a requirement results in a fractional number (such as 14.2 required trees), the requirement shall be considered the next greatest whole number (such as 15 required trees).

(i) Landscaping in the right-of-way of a state highway shall be approved by the district engineer, where applicable.

(j) Prior to excavation for screening or landscape purposes within public right-of-way or easements, the location of all underground utilities shall be determined by calling the Kansas One Call System at 687-2470.

(k) Berms, irrigation systems, street furniture, entry monuments, fountains, statuary or similar landscape features may be located within public street right-of-way, provided adequate right-of-way exists and a minor street privilege is granted through the office of the city engineer.

(l) Walls on permanent foundations and fences over six feet in height require a building permit. Walls shall not be constructed within utility easements or street right-of-way; provided, however, that wall segments on column footings may be permitted across easements if determined appropriate by the city engineer.

(m) Landscape plans shall be submitted showing the location of all landscape materials and shall be drawn to scale with the scale and north arrow indicated, as well as names of all adjacent streets, the lot dimensions, the location of all utility and drainage easements, and the legal description of the zoning lot. The plans shall contain a listing of the proposed plant materials indicating their numbers, names (both botanical and common) and sizes at the time of planting. The plans shall also state how water is to be provided to plant materials. Copies of the plans shall be submitted to the City in the quantity required by current policy. Statements setting out requirements (i), (j), (k) and (l) above should be included on the landscape plan if they apply to the project. The number of parking spaces within parking lots shall be shown. Calculations of the amount of required landscaped street yard and number of parking lot trees, as well as the amount and number actually provided, shall be included as part of the landscape plan.

(n) No more than seventy-five percent of the required landscape areas shall be covered by turf grasses unless the grass is buffalo grass.

(o) Plants shall be high quality nursery-grown stock which meets the American Association of Nurserymen standards as specified by the American National Standards Institute in ANSI Z60.1-1986 or as may be amended in the future.

(Ord. 749, Sec. 1)

17-108. MAINTENANCE.

(a) The landowner is responsible for the maintenance of all landscaping materials and shall keep them in a proper, neat and orderly appearance free from refuse and debris at all times.

(b) Maintenance shall include mowing, trimming, weeding, cultivation, mulching, tightening and repairing of guys and stakes, resetting plants to proper grades and upright position, restoration of planting saucer, fertilizing, pruning, disease and insect control and other necessary operations.

(c) All landscaped areas shall be provided with a readily available permanent water supply; provided, however, that landscaped areas utilizing drought-tolerant plants may use a temporary above-ground system and shall be required to provide irrigation for the first two growing seasons only. Irrigation shall not be required for established trees and natural areas that remain undisturbed by development activities. Irrigation systems shall be designed and operated in a manner to avoid water on impervious surfaces and public streets. Long, narrow landscaped areas are difficult to irrigate efficiently; therefore, landscaped areas less than five fee in any dimension shall not be irrigated with overhead spray sprinklers. Drip irrigation is acceptable.

(d) Disturbed soil between trees and shrubs in the planting beds shall be mulched, planted or otherwise treated to prevent wind and water erosion.

(e) Plants which die shall be replaced within sixty days or, if weather prohibits replanting within that time, then replanting shall occur within the first thirty days of the next planting season.

(Ord. 749, Sec. 1)

17-109. EXCEPTIONS AND MODIFICATIONS. The provisions of this chapter may be modified and/or tradeoffs permitted with respect to dimension or location within a property boundary. Permitted forms of modification and exception are identified as follows:

(a) For purposes of application of this chapter, no buffer or screening requirement located on an adjacent property may be utilized as a portion of a required buffer or screen, nor allowed to be used in a tradeoff or modification of a standard.

(b) The change in use or redevelopment of a site utilizing all or parts of an existing building(s) shall not be required to meet the landscaping requirements of this chapter except as follows:

(1) when the value of the new addition, renovation or redevelopment exceeds fifty percent of the value of the existing development, as determined by the county appraiser's office; or

(2) when there is more than a thirty percent increase of the gross floor area on the site.

New parking lots and additions to parking lots which are required to provide landscaping and/or screening in accordance with Section 17-105 shall do so even if there is no increase in gross floor area or value.

(c) Lots or tracts of land abutting the right-of-way of a railroad zoned for residential use and held by title separate from all abutting lands shall not be required to provide landscaped buffers along the common property line.

(d) In those instances where a development site abuts a public park or other permanent public open space and where at least one hundred feet of undisturbed natural foliage exists along the common lot line, a landscaped buffer requirement along the common property line is not required; provided, however, loading docks, trash containers and storage areas on the development site along the common line shall be screened as provided within the City of Maize Zoning Code.

(e) For purposes of this section, the Planning Administrator shall have the authority to interpret the language and specifics of application of the several exceptions. Appeals of the decisions of the Planning Administrator shall be filed with the board of zoning appeals. In the opinion of the Planning Administrator, where there exist extraordinary conditions of topography, existing vegetation, land ownership, site boundaries and dimensions, adjacent development characteristics or other circumstances not provided for in this section, the Planning Administrator may modify or vary the strict provisions of this section in such a manner and to such an extent as is deemed appropriate to the public interest, provided that the purposes and intent of this chapter are maintained through such modification or variance.

(f) No property owner obtaining a permit for a project involving a new building or building addition shall be required to expend more than four percent of the total construction cost for materials and installation costs associated with landscaping and parking lot screening required by this ordinance. No property owner obtaining a permit for a project involving only a new or expanded parking lot, with no building construction, shall be required to expend more than eight percent of the total construction cost for materials and installation costs associated with parking lot landscaping and screening required by the ordinance codified in this section. In order to qualify for this exception, the property owner must submit a bona fide bid from a licensed contractor for the total project construction cost,

and a bona fide bid from a licensed contractor or nurseryman for materials and installation costs for an approved landscape plan. The bid for landscaping must distinguish those items which are required by the ordinance from any other items which are not required. If the total cost of required landscaping items exceeds the applicable percentage as specified above, then the property owner may select items at his discretion to delete from the approved plan, and submit the list of items to be deleted as an addendum to the approved plan.

(g) The preservation and protection from construction damage of each existing tree of six or more inches in trunk diameter (measured six inches above the ground) within the street yard, parking lot, or perimeter buffer area of a site shall account for the equivalent two trees required in that landscaped street yard, parking lot, or perimeter buffer area of the site.
(Ord. 749, Sec. 1)

17-110. WATER CONSERVATION MEASURES. When meeting the landscape requirements outlined in this Chapter, property owners are encouraged to use water in the most efficient way possible. A number of principles for effective water usage are found in the accepted approach to landscaping called xeriscape. The term xeriscape is derived from a Greek word meaning “dry”. The desired effect of xeriscape, however, is to provide an attractive and even lush-appearing landscape with a minimum amount of water usage. This is accomplished through the application of seven basic principles of xeriscape. Information concerning the principles of xeriscape is available from Botanica, the Sedgwick County Extension Office and nurseries and garden centers throughout the community. Property owners are encouraged to take advantage of the water-saving practices set out in the principles of xeriscape. Regardless of the extent to which the principles of xeriscape are applied, automatic irrigation systems installed in association with the landscaping requirements of this section shall be equipped with moisture-sensing devices or automatic rain shut-off devices that forestall scheduled watering cycles when moisture adequate to sustain healthy plant life is present. (Ord. 749, Sec. 1)

17-111. ENFORCEMENT/ASSURANCES FOR INSTALLATION AND COMPLETION. Prior to the issuance of a certificate of occupancy for any structure where landscaping is required, except when a certificate of occupancy is obtained by providing acceptable assurance to the city guaranteeing the completion of such landscaping, all work as indicated on a landscaping plan shall be inspected and approved by the city of Maize. At the time of inspection, the landowner shall possess a copy of the approved landscaping plan for use by the inspecting official. At the time of inspection, the city shall check the quantities and locations of landscaping materials. At the time of such inspection, the landowner shall warrant that the completed landscaping complies with the requirements of this section. Such warranty shall include the quantities, locations, species and sizes of plants and other landscape materials used for compliance. In the event that an inspection is not conducted by the city prior to the issuance of a certificate of occupancy because acceptable assurance has been provided to the city guaranteeing the completion of such landscaping, such inspection shall be done by the city subsequent to the installation of such landscaping but prior to the release or expiration of the acceptable assurance. A landowner may obtain a final certificate of occupancy for a structure prior to the completion of required landscaping work if the completion is not possible, due to seasonal or weather

conditions, and if the landowner submits the necessary assurances to the city for the completion of the landscaping. The acceptable assurance guaranteeing the completion of the landscaping, such as an irrevocable letter of credit, certified check or other acceptable assurance, shall be equal to one hundred twenty-five percent of the cost of the landscaping work and shall be accompanied by a written assurance that such landscaping will be completed to the satisfaction of the City. (Ord. 749, Sec. 1)

17-112. ADMINISTRATIVE REMEDIES. Until the provisions of this Chapter, including the conditions of any permits issued thereunder, have been fully met, the city may withhold issuance of any building permit, certificate of occupancy or inspection required under the current city building code or zoning code or the city may issue cease and desist orders for further development. (Ord. 749, Sec. 1)

17-113. PENALTIES. Any person, individual, partnership, corporation or association who violates any of the provision of this chapter and who fails to correct such violation upon which a citation has been served is guilty of a misdemeanor and upon conviction, shall be punished by a fine of not to exceed five hundred dollars or by imprisonment of not more than six months, or by both such fine and imprisonment. Each day any violation hereof is found to exist or continues to exist shall be a separate offense and shall be punishable as such hereunder. (Ord. 749, Sec. 1)

17-114. APPEALS. Any person aggrieved by the administration or interpretation of any of the terms or provisions of this chapter may appeal to the board of zoning appeals of the city which, after hearing and with notice to the applicant and adjoining property owners as provided in the City of Maize Zoning Code, may reverse, affirm or modify, in whole or in part, the order, requirement, decision or determination as ought to be made, and to that end shall have the powers of the department or official from whom the appeal is taken. (Ord. 749, Sec. 1)

17-115. AMENDMENTS. Any amendments to Sections 17-101 through 17-114, inclusive, of this code shall be forwarded to the City of Maize Planning Commission for their review and comment. (Ord. 749, Sec. 1)

17-116. SEVERABILITY. If any section or provision of this Chapter is for any reason held illegal, invalid, or unconstitutional, such action shall not affect the remaining provisions of this ordinance, which shall remain valid to the extent possible. (Ord. 749, Sec. 1)

CHAPTER XVIII. MANUFACTURED/MOBILE HOME PARK CODE.

Article 1. Manufactured/Mobile Home Park Code

ARTICLE 1. MANUFACTURED/MOBILE HOME PARK CODE

18-101. DEFINITIONS. As used in this Chapter, the following words and terms shall be defined as follows:

(a) **"City"** means the City of Maize, Kansas.

(b) **"Code"** means the Code of the City.

(c) **"City Administrator"** means the City Administrator or his/her authorized representative.

(d) **"Effective Date of the Ordinance"** means the date of publication of a summary of the Ordinance creating this Chapter 18 of the Code of the City of Maize, Kansas, in the official City newspaper after it has been passed by the Governing Body of the City and approved by the Mayor.

(e) **"Manufactured/Mobile Home"** means a dwelling unit built on or after June 15, 1976, which is fabricated in one or more sections at a location other than the home site by assembly line type production techniques or by other construction methods unique to an off-site manufacturing process. Every section shall bear a label certifying that it is built in compliance with the Federal Manufactured Home Construction and Safety Standards generally known as the HUD code established pursuant to 42 U.S.C. §5403. A Manufactured/Mobile Home is designed to be towed on its own chassis or be site-delivered by alternative means. A Manufactured/Mobile Home shall be transportable in one or more sections, which in the traveling mode is eight (8) body feet or more in width or forty (40) body feet or more in length or, when erected on site is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. The term Manufactured/Mobile Home does not include a Recreational Vehicle.

(f) **"Manufactured/Mobile Home Space"** and/or **"Mobile Home Space"** means a space where a Manufactured/Mobile Home or Mobile Home is designed to be located, a plot of ground which accommodates one (1) Manufactured/Mobile Home or Mobile Home and which provides service facilities for water, sewage and electricity.

(g) **"Manufactured/Mobile Home Installation Contractor"** means a contractor who has been licensed as required by the State of Kansas to obtain required permits to perform blocking, anchorage, tie-down installation and skirting installation as required by this chapter.

(h) **"Manufactured/Mobile Home Park"** means a parcel of land which has been planned and improved in some manner, and used or intended to be used by one or more occupied Manufactured/Mobile Homes not placed on permanent foundations. The term Manufactured/Mobile Home Park does not include sales lots on which unoccupied Manufactured/Mobile Homes, whether new or used, are parked for the purpose of storage, inspection or sale.

(i) **"Mobile Home Park"** means a parcel of land which is occupied by one or more Mobile Homes or Manufactured/Mobile Homes, which is in existence on the Effective Date of the Ordinance and which is non-conforming in one or more ways to

requirements of the City that apply to Manufactured/Mobile Home Parks and/or is not licensed as a Manufactured/Mobile Home Park.

(j) **"Mobile Home"** means a movable detached single-family dwelling unit that was manufactured prior to June 15, 1976 and is not in conformance to the National Manufactured Home Construction and Safety Standards Act, or HUD code, as is now required for a Manufactured/Mobile Home. Such units shall provide all of the accommodations necessary to be a dwelling unit and shall be connected to the utilities in conformance with all of the applicable regulations. The term "Manufactured/Mobile Home" or "Mobile Home" does not include a Recreational Vehicle.

(k) **"Occupy"**, **"occupancy"** or **"occupied"** means the use of any Mobile Home, Manufactured/Mobile Home or Recreational Vehicle by any person for living, sleeping, cooking or eating purposes for any period of four (4) or more consecutive days.

(l) **"Operator"** means the person or business that has charge, care or control of a licensed or unlicensed Park or Campground.

(m) **"Park"** means Manufactured/Mobile Home Park or Mobile Home Park.

(n) **"Person"** means any individual, firm, trust, partnership, association or corporation.

(o) **"Recreational Vehicle"** means a unit designed as temporary living quarters for recreational, camping or travel use; units may have their own power or be designed to be drawn or mounted on an automotive vehicle. Recreational Vehicle shall include motor homes, travel trailers, truck campers, camping trailers, converted buses, house boats or other similar units as determined by the City Administrator.

(p) **"Recreational Vehicle Campground"** or **"Campground"** means a lot, tract or parcel of land designed for occupancy by Recreational Vehicles for temporary or transient living purposes, including the use of camping spaces for tents.

(q) **"Recreational Vehicle Space"** means a space located within a Campground that accommodates one (1) Recreational Vehicle.

(r) **"Roadway"** means any private street within a Park that provides for the general vehicular and pedestrian circulation within the Park.

(s) **"Service Building"** means a building housing all of the following: separate toilet facilities for men and women, laundry facilities and separate bath or shower accommodations. Such building may also include other associated uses such as an office and recreational facilities for the Campground or Park.

18-102. LOCATION OF MOBILE HOMES, MANUFACTURED/MOBILE HOMES AND RECREATIONAL VEHICLES. It is unlawful for any person to occupy a Manufactured/Mobile Home unless the Manufactured/Mobile Home is located in a licensed Manufactured/Mobile Home Park or a licensed Mobile Home Park. It is unlawful for any person to occupy a Mobile Home unless such Mobile Home is located in a licensed Mobile Home Park.

EXCEPTIONS:

(a) A Manufactured/Mobile Home may be occupied at a construction site by a night watchman or construction project workmen when approved by the City Administrator when deemed necessary for security and/or construction purposes. Such permission may be canceled by the City Administrator upon three (3) days written notice when, in his opinion, the intent of this Section is being violated. Manufactured/Mobile Homes will be removed from a construction site within thirty (30) days of the substantial completion of a construction project.

(b) A Manufactured/Mobile Home may be occupied as a one-family dwelling as a residence for a watchman, caretaker or guard for an industrial use in the "LI" zoning district, provided such Home is placed on a permanent foundation.

18-103. PERMITS REQUIRED FOR INSTALLATION OF MANUFACTURED/MOBILE HOMES. (a) A Manufactured/Mobile Home installation permit shall be obtained from the City for every Manufactured/Mobile Home which is installed or relocated within the City. The purpose of such Manufactured/Mobile Home installation permit is to assure that Manufactured/Mobile Homes are anchored and placed on footings and foundations as required by Section 18-117 and comply with all requirements contained in this Chapter 18. Manufactured/ Mobile Home installation permits shall be obtained at least twenty-four (24) hours prior to installation of any Manufactured/Mobile Home within the City. Manufactured/ Mobile Home installation permits may only be obtained by a State of Kansas licensed Manufactured/ Mobile Home Installation Contractor.

(b) After the Effective Date of the Ordinance:

(1) No additional Mobile Homes will be brought into the City, no additional Mobile Homes will be installed in a Mobile Home Park, and Mobile Homes may not be removed from one Mobile Home Park and relocated to another Mobile Home Park.

(2) No Manufactured/Mobile Home will be installed on a location unless it is lawful to occupy the Manufactured/Mobile Home under Section 18-102; and

(3) Mobile Homes, when removed from a Mobile Home Park, may not be replaced.

18-104. LICENSE REQUIRED. No Manufactured/Mobile Home installation permit shall be issued to any Manufactured/Mobile Home Installation Contractor who has not first obtained a license from the State of Kansas that is in good standing.

18-105. ANNUAL LICENSE. (a) After the Effective Date of the Ordinance, except for the period of time allowed in Section 18-106 and elsewhere in this Chapter 18, it shall be unlawful for any person to construct, maintain and operate any Manufactured/Mobile Home Park, Mobile Home Park or Campground within the City unless such person is licensed by the City to operate the same, with such license not being transferrable except with the consent of the City.

(b) There shall be assessed against each Manufactured/Mobile Home Space located within the corporate limits of the City an annual impact license fee that will be assessed and paid as follows:

(1) The fee for a Manufactured/Mobile Home Park shall be based upon the number of lots in the Manufactured/ Mobile Home Park then existing as of January 1 of each calendar year. The fee shall be in the amount of Twenty Dollars ($20) for each Manufactured/Mobile Home Space or Mobile Home Space and will be paid to the City not later than February 15 of each year, except that for any newly added Manufactured/Mobile Home the impact fee shall be Fifty Dollars ($50) for the year or part of the year in which the Space is added which shall be paid immediately.

(2) Mobile Home Parks shall pay the City an annual impact fee that equals the amount the City of Wichita, Kansas, assesses against similarly situated Manufactured/Mobile Home Parks located within its city limits. The City Administrator is responsible for researching City of Wichita, Kansas, fees and for setting the annual impact fee for Mobile Home Parks based on the City Administrator's research. The

Mobile Home Park annual impact fee will be due starting July 1, 2015, and each July 1 thereafter.

(3) Mobile Home Parks' impact fees will increase to equal the fee that Manufactured/Mobile Home Parks are required to pay under Section 18-105(b)(1) of the Code if the fee title owner of a Mobile Home Park as of the Effective Date of the Ordinance conveys, sells, transfers and/or assigns the fee title ownership of the Mobile Home Park to another entity or person. Impact fees for Mobile Home Parks will continue to be due on July 1 of each year. The increased impact fee specified in Section 18-105(b)(1) of the Code will be due the first July 1 following a change in fee title ownership that occurs between a preceding July 1 and an upcoming July 1.

(4) Each day an annual license fee for a Manufactured/Mobile Home Park remains unpaid after February 15 of any year and for a Mobile Home Park remains unpaid after July 1 of any year will constitute a separate violation. In addition, the annual license fee will be increased by one and one-half percent (1.5%) per month during the time period the license fee remains unpaid.

18-106. EXISTING PARKS AND OPERATORS. (a) All persons operating existing Mobile Home Parks must obtain a license to operate a Mobile Home Park on or before July 1, 2015. Applications for Mobile Home Park licenses must be made at least thirty (30) days before July 1, 2015. The application shall be submitted on forms prepared by the City Administrator.

(b) Each licensed Park and Campground will have a designated operator. The name and contact information for each operator will be provided to the City at the time an application for a license is made, annually when a license is renewed and within ten (10) calendar days of the date an Operator registered with the City leaves the Park or Campground.

18-107. APPLICATIONS FOR LICENSES FOR NEW MANUFACTURED/MOBILE HOME PARKS AND CAMPGROUNDS. (a) All persons developing Manufactured/Mobile Home Parks and Campgrounds after the Effective Date of the Ordinance must make an application to the City Administrator for the Manufactured Home Park license or Campground license. The application fee will be One Thousand Dollars ($1,000). An application for a license may be made only after a development plan has been approved by the Director of Planning of the City in accordance with the zoning code of the City. When platting is required, the development plan shall be submitted at the preliminary platting stage. When platting is not required, a sketch plan showing the relationship of the Manufactured/Mobile Home Spaces or Recreational Vehicle Spaces to the Roadways, parking, open space and other information affecting the overall environment of the Park may be submitted for approval by the Director of Planning of the City.

(b) The application will be in triplicate, in writing, signed by the applicant and will include the following:

(1) the name, address and telephone number of the applicant;

(2) the name, address and telephone number of the person who is designated to be the Operator of the Manufactured/Mobile Home Park or Campground;

(3) the location and legal description of the Manufactured/Mobile Home Park or Campground;

(4) at least three (3) complete sets of plans showing compliance with all applicable provisions of this Chapter, including a plot plan drawn to scale at not less

than one inch (1") equal to one hundred feet (100') showing the Manufactured/Mobile Home Park or Campground dimensions;

(5) the number and location of Manufactured/Mobile Home Spaces;

(6) the location and width of Roadways, sidewalks, off-street parking and easements;

(7) the location, size and specifications of buildings, sewers, water lines and gas lines;

(8) the location of any sewage disposal system and water supply system;

(9) the existing topography; and

(10) a drainage grading plan.

The submitted plans will be approved by the City Administrator for construction only after they have been reviewed and approved by the Director of Planning. Approval and issuance of a Manufactured/Mobile Home Park license for a new Manufactured/ Mobile Home Park, and of a Campground license for a new Campground, will not be completed until construction in accordance with the approved plans has been completed.

(c) An application for any addition to an existing Manufactured/Mobile Home Park shall be processed as an application for a new Manufactured/Mobile Home Park. Mobile Home Parks cannot be expanded. Any licensed Mobile Home Park can be converted to a licensed Manufactured/Mobile Home Park if all conditions that apply in this Chapter 18 to Manufactured/Mobile Home Parks are complied with including, but not limited to the requirement that no Mobile Home can be located in a Manufactured/Mobile Home Park. An application to convert from a Mobile Home Park license to a Manufactured/Mobile Home Park license will be processed as an application for a new Manufactured/Mobile Home Park license.

18-108. APPLICATION FOR TEMPORARY PERMIT FOR PLACEMENT OF INDIVIDUAL MOBILE HOME. Any person desirous of locating a Manufactured/ Mobile Home or Recreational Vehicle in accordance with Section 18-102(a) or 18-102(b) must make an application to the City Administrator for a temporary permit. A One Hundred Dollar ($100) application fee will be paid at the time the application is filed. Such application will be in writing, signed by the applicant and will include the following: the name, address and telephone number of the applicant; the location and legal description of the property where the Manufactured/Mobile Home is requested to be located; and shall provide all other applicable information as follows:

(a) Those applications requested in accordance with Sections 18-102(a) and 18-102(b) shall give the reason such application is being made and shall give the number of days the Manufactured/Mobile Home is intended to be parked which, in no event, shall exceed one hundred twenty (120) days. The application shall be accompanied by a plot plan drawn to scale showing the legal description and boundaries of the application area, the location of existing buildings, and the location of where the Manufactured/Mobile Home will be parked;

(b) The connection of the Manufactured/Mobile Home to any utility shall be in accordance with all applicable regulations of this Code.

18-109. PARK LOCATION. All Manufactured/Mobile Home Parks shall be located in accordance with the provisions of the zoning code of the City and shall be located on a well-drained site properly graded to insure adequate drainage and freedom from stagnant pools of water. Plans and specifications for the drainage and grading system, including Roadways, storm sewers and appurtenances, and general drainage and grading shall be prepared by a licensed professional engineer.

18-110. PARK AND CAMP LAYOUTS. (a) *Area*: Manufactured/Mobile Home Parks shall contain the minimum area as required by the zoning code of the City.

(b) *Setbacks:* All Manufactured/Mobile Homes shall comply with the setbacks and clearances as set forth for Manufactured Home Parks in the zoning code of the City.

EXCEPTIONS TO ACCESSORY STRUCTURE SETBACK REQUIREMENTS:

(1) Accessory structures of non-combustible construction which do not exceed one hundred (100) square feet in area and have no electrical power may be located closer than three (3) feet to the main use structure or other appropriately located accessory structures on the same Manufactured/Mobile Home Park lot. Such accessory structures must be located at least ten (10) feet from main use structures on any adjoining lot and at least six (6) feet from all structures on any adjoining lot. If an accessory structure greater than one hundred (100) square feet in area is open on all sides and is constructed of non-combustible materials, such accessory structure may be closer than six (6) feet to the main use structure on the same lot or may even abut the main use structure on the same lot. For such accessory structure, the minimum separation to an adjoining lot structure which is also constructed of non-combustible materials may be reduced from ten (10) feet to six (6) feet by the City Administrator. Accessory structures must be located on concrete, asphalt or asphaltic concrete pads.

(c) *Roadways:*

(1) All Manufactured/Mobile Home spaces or Recreational Vehicle spaces located in a Manufactured/Mobile Home Park or Campground shall abut a Roadway. No Manufactured/Mobile Home Space or Recreational Vehicle Space located in a Manufactured/Mobile Home Park or Campground shall have its direct access from a public street or highway. Roadways shall be in general conformance to the local residential street requirements of the City subdivision regulations. Roadway widths shall not be less than thirty (30) feet. All Roadways shall have unobstructed access to a public street or highway, with all dead-end private Roadways being provided an adequate vehicular turnaround (cul de sac) with a diameter of not less than seventy (70) feet, or shall have an alternate turnaround area such as hammerheads, etc., as may be approved by the City Administrator or designee as providing service equal to the cul de sac. All Manufactured/Mobile Home Park and Campground Roadways shall be surfaced with concrete, asphaltic concrete, asphalt or other comparable surfacing. The Operator of a Manufactured/Mobile Home Park or Campground will be responsible for maintaining the Roadway to a standard that complies with this Section 18-110(c)(1) at all times.

(2) On or before July 1, 2015, and thereafter, Roadways in Mobile Home Parks shall at all times be constructed and maintained to a standard that complies with service drive requirements and standards as set by the Sedgwick County Fire District No. 1 as currently exist and as may be amended from time to time. A Mobile Home Park's obligation to construct and maintain Roadways will change from standards set in this Section 18-110(c)(3) of the Code to standards set in Section 18-110(c)(1) of the Code if the fee title owner of a Mobile Home Park as of the Effective Date of the Ordinance conveys, sells, transfers or assigns the fee title ownership of the Mobile Home Park to another entity or person. Roadways located within a Mobile Home Park will be constructed and maintained to standards set at Section 18-110(c)(1) of the Code not later than ninety (90) days from the date fee title ownership of the Mobile Home Park is conveyed, sold, transferred and/or assigned to a person

or entity that is different than the fee title owner on the Effective Date of the Ordinance.

(d) *Patios and Storage Lockers:*

(1) Each Manufactured/Mobile Home Space located within a Manufactured/ Mobile Home Park shall be provided with a paved patio of at least two hundred (200) square feet, which may be of concrete, masonry, wood or other hard surface material. A storage locker of at least one hundred twenty (120) cubic feet shall be provided for each Manufactured/Mobile Home Space. Storage lockers shall be designed in a manner that will enhance the Park and shall be constructed of suitable weather-resistant materials.

(2) Storage lockers of not less than forty-nine (49) square feet shall be provided for each Manufactured/Mobile Home Space or Mobile Home Space within a Mobile Home Park that is occupied by a Manufactured/Mobile Home or a Mobile Home. Mobile Home Parks will be required to comply with Section 18-110(d)(1) of the Code, and this Section 18-110(d)(2) will not apply to a Mobile Home Park if the fee title owner of the Mobile Home Park as of the Effective Date of the Ordinance conveys, sells, transfers or assigns the fee title ownership of the Mobile Home Park to another entity or person. The obligation for a Mobile Home Park to be in compliance with Section 18-110(d)(1) will be effective ninety (90) days from the date the fee title owner of the Mobile Home Park as of the Effective Date of the Ordinance conveys, sells, transfers or assigns to another entity or person the fee title ownership of the Mobile Home Park.

(e) *Off-Street Parking:* Surfaced off-street parking of asphalt, asphaltic concrete or concrete for two (2) vehicles shall be provided within the Manufactured/Mobile Home Park and Campground for each Manufactured/Mobile Home Space and Recreational Vehicle Space as required by the zoning code of the City. No portion of the Park Roadways shall be used to provide the required off-street parking.

(f) *Recreation Space:* Each Manufactured/Mobile Home Park shall devote at least eight percent (8%) of its gross area to recreation space for the use and enjoyment of the occupants of the Park. Each such recreational space shall not be less than ten thousand (10,000) square feet of land area. Required setbacks and clearances and the Roadways and off-street parking spaces shall not be considered as recreational space.

(g) *Screening:* Screening of new or expanded Manufactured/Mobile Home Parks must be provided as required by the zoning code of the City.

(h) *Lighting:* All Manufactured/Mobile Home Park and Campground Roadways shall be lighted at night with not less than seven thousand (7,000) lumen lamps at a maximum interval of two hundred (200) feet located approximately twenty (20) feet from the ground, or friendship lights (gas or electric) with lighting equal to forty (40) watts, and lighted automatically from dusk to dawn, shall be provided for each Manufactured/Mobile Home Space adjacent to the Manufactured/Mobile Home Park Roadways, and at a maximum interval of seventy-five (75) feet adjacent to Camp Roadways.

(i) *Landscaping:* Landscaping of new or expanded Manufactured/Mobile Home Parks must provide required landscaping in accordance with Chapter 17 of the Code of the City.

(j) *Existing night lighting in Mobile Home Parks:* Mobile Home Parks with existing night lights do not have to comply with Section 18-110(h) of the Code of the City; EXCEPT Mobile Home Parks with night lighting will maintain night lighting of the Mobile Home Park at current levels or better levels than currently exist. Existing Mobile Home Parks that currently do not have night lighting shall install three (3) light

poles at locations as determined by the City Administrator that are twenty (20) feet off the ground that each provide not less than seven thousand (7,000) lumen lamps by July 1, 2015. Mobile Home Parks' night lighting requirements will be upgraded to comply with the requirements contained in Section 18-110(h) of the Code not later than ninety (90) days from the date the fee title owner of the Mobile Home Park as of the Effective Date of the Ordinance conveys, sells, transfers or assigns the fee title ownership of the Mobile Home Park to another person or entity.

18-111. MANUFACTURED/MOBILE HOME PARK STORM SHELTERS. (a) General Requirements. Every Park containing ten (10) or more Manufactured/Mobile Home Spaces and/or Mobile Home Spaces must be provided with above-grade or below-grade storm shelters which shall:

(1) have a minimum floor area of ten (10) square feet for each Manufactured/ Mobile Home Space and Mobile Home Space in the Park;

(2) be designed by a licensed structural engineer or architect and built in accordance with plans sealed by said structural engineer or architect;

(3) be designed and constructed to meet all Federal Emergency Management Agency (FEMA) requirements and guidelines if the shelter is located in a floodplain;

(4) be designed and constructed to meet the minimum lighting, ventilation and exiting requirements of the City's currently-adopted editions of the City building code, mechanical code, plumbing code and electrical code, where applicable;

(5) be designed and constructed to meet all applicable requirements of the Americans with Disabilities Act (ADA);

(6) be located no farther than one thousand three hundred twenty (1,320) linear feet from the furthest Manufactured/Mobile Home Space or Mobile Home Space in the Park.

(b) Restroom Facilities. Restroom facilities in required storm shelters shall be optional. Toilets may be either flush-type operating from normal water supply, chemical or other types as approved by the Sedgwick County Health Department.

(c) Access to Shelters. Storm Shelters will be accessible and usable at all times. It is unlawful for any required storm shelter to be used for storage purposes if such storage reduces the minimum floor area available for shelter of persons below the requirements of subparagraph (a) of this section.

(d) A Mobile Home Park must comply with this Section 18-111 of the Code not later than ninety (90) days from the date the fee title owner of the Mobile Home Park as of the Effective Date of the Ordinance conveys, sells, transfers or assigns the fee title ownership of the Mobile Home Park to another entity or person.

18-112. GARBAGE AND REFUSE. (a) Garbage and refuse collection will be provided and paid for by the Manufactured/Mobile Home Park. One dumpster that has the capacity to hold not less than eight (8) cubic yards of garbage and refuse will be provided at each Manufactured/Mobile Home Park for every sixteen (16) Manufactured/Mobile Homes that are located in a Manufactured/Mobile Home Park. Mobile Home Park Operators shall have refuse collection systems that serve the needs of residents of the Mobile Home Park.

(b) Garbage and refuse collection will be provided and paid for by the Operator of a Campground. One dumpster will be provided per sixteen (16) Recreational Vehicle spaces in a Campground.

(c) Garbage and refuse storage and collection in Parks and Campgrounds will be maintained so as to create no health hazards, rodent harboring, insect breeding, accident hazard or air pollution.

(d) Dumpsters will be located on concrete pads of six inches (6") or greater thickness.

(e) On or before July 1, 2015, Operators of Mobile Home Parks will be responsible for providing garbage and refuse collection to persons who reside within the Park at no cost to the persons who reside within the Park. Bins for disposal and collection of garbage and refuse will be provided by the Operator of the Mobile Home Park in a manner that is adequate to serve the needs of the residents of the Mobile Home Park. A Mobile Home Park, instead of complying with this Section 18-112(e) of the Code, shall comply with Section 18-112(a), (b), (c), and (d) of the Code not later than ninety (90) days from the date the fee title owner of the Mobile Home Park as of the Effective Date of the Ordinance conveys, sells, transfers and/or assigns fee title ownership of the Mobile Home Park to another entity or person.

18-113. RODENTS AND INSECTS. (a) Maintenance Free from Infestation. Parks and Campgrounds shall be maintained free of excessive insect or rodent infestation.

(b) Preventive Environmental Maintenance. The Park or Campground Operator shall keep all areas outside of the confines of the individual Manufactured/Mobile Homes, Mobile Homes, or Recreational Vehicles reasonably free of breeding, harboring and feeding places for rodents and insects. Areas shall be kept free of litter, trash, salvage material, junk and weeds or other noxious vegetation growths in excess of six inches (6") in height. Manufactured/Mobile Home, Mobile Home, or Recreational Vehicle owners and tenants will be jointly and severally responsible for extermination of any insect or rodent infestations occurring within individual Manufactured/Mobile Homes, Mobile Homes, or Recreational Vehicles.

18-114. REGISTER. (a) It shall be the duty of the Operator of each Park and Campground to keep a register containing a record of all Manufactured/Mobile Home, Mobile Home, and Recreational Vehicle owners and tenants located within each Park and Campground. The register shall contain the name and address of each occupant; the make, model, year and manufacturer of each Manufactured/ Mobile Home or Recreational Vehicle; the dates of arrival and departure of each Manufactured/Mobile Home, Mobile Home, or Recreational Vehicle, including the name of the Contractor(s) responsible for connections to the utilities. The Operator of each Park or Campground shall keep the register available for inspection at all reasonable hours by law enforcement officers, assessor, public health officials and other officials whose duties necessitate acquisition of the information contained in the register. The original records of the register shall not be destroyed for a period of three (3) years following the date of registration.

(b) It shall be the responsibility of the Operator of each Park or Campground to notify the Code Enforcement Officer of damage exceeding one hundred dollars ($100) by fire or storm to any Manufactured/Mobile Home, Mobile Home or Recreational Vehicle in their Park or Campground. The Code Enforcement Officer shall compile all such information into categories of losses and their causes, as nearly as can be determined, for future reference.

(c) It shall be the duty of the Operator of each Manufactured/Mobile Home Park to notify the City Administrator of every new or relocated Manufactured/Mobile Home installed in an existing Space at least twenty-four (24) hours prior to the date of

installation so that the City Administrator or designee can inspect for compliance with this Chapter 18.

18-115. ALTERATIONS AND ADDITIONS TO MANUFACTURED/MOBILE HOMES AND MOBILE HOMES IN MANUFACTURED/MOBILE HOME PARKS OR MOBILE HOME PARKS. (a) Alterations and additions to Manufactured/Mobile Homes and Mobile Homes which are affected by provisions contained in this Chapter, within or to a Park and facilities, shall be made only after application to the City Administrator and in conformity with all of the sections of the Code of the City.

(b) No additions of any kind shall be built onto or become a part of any Manufactured/Mobile Home or Mobile Home.

EXCEPTION: Accessory structures not exceeding an area of one hundred (100) square feet of enclosed space, carports and residential patio structures may be attached to or become a part of a Manufactured/Mobile Home or Mobile Home if the structure complies in all respects to the applicable provisions of the building code and other technical codes, and permits are secured from the City Administrator.

Skirting of Manufactured/Mobile Homes or Mobile Homes is permissible only with noncombustible material; however, skirting shall not be permanently attached to the Manufactured/Mobile Home, Mobile Home, or to the ground that would provide a harborage for rodents or create a fire hazard.

18-116. ADDITIONS AND ALTERATIONS TO A HOME IN A MANUFACTURED/MOBILE HOME PARK. Additions and alterations may be made to any Manufactured/Mobile Home in a Manufactured/Mobile Home Park. Such additions or alterations shall also be placed on a permanent foundation as required by the building code of the City. Whenever any Manufactured/Mobile Home does not have a continuous perimeter foundation, continuous perimeter skirting shall be installed. Such skirting shall be of noncombustible material and resistant to deterioration due to weather.

18-117. MANUFACTURED/MOBILE HOME AND MOBILE HOME GROUND ANCHORS. (a) Any Manufactured/Mobile Home or Mobile Home which is occupied or inhabited by any person as a dwelling, office or commercial space will be secured to the ground by tie-downs and ground anchors of a type which has been approved by the State of Kansas pursuant to the Mobile Home Security Requirements Act (K.S.A. 75-1226 *et seq.*) (the "Act"), unless such Manufactured/Mobile or Mobile Home is secured to the ground on a permanent foundation as prescribed by the Act.

(b) Any Mobile Home secured with tie-downs and ground anchors which were installed prior to July 1, 1975, will be deemed in compliance with this Section 18-117 if such tie-down devices were placed in a manner similar to the prescribed manner in the Act, unless the City Administrator or designee finds such tie-down devices are inadequate to anchor or secure a Mobile Home to the ground.

18-118. MOBILE HOME PARK COMPLIANCE DEADLINES. It will be unlawful on and after July 1, 2015, to operate a Mobile Home Park that is not in compliance with the provisions of Chapter 18 of the Code that apply to Mobile Home Parks, EXCEPT the City Administrator has authority to extend the deadline past July 1, 2015, if the City Administrator determines that good faith progress is being made to comply with the provisions of this Chapter 18 of the Code. The deadline extension can apply to one or more provisions of this Chapter 18. Extensions will not apply unless specifically granted by the City Administrator.

18-119. COMPLIANCE WITH CODE, LAWS AND REGULATIONS. Manufactured/ Mobile Homes, Mobile Homes and Recreational Vehicles will at all times be maintained and operated in a manner that complies with applicable state laws and regulations and the ordinances and Code of the City.

18-120. IDENTIFICATION OF ROADWAYS AND SPACES. Roadways within Parks and Campgrounds will be marked and identified in compliance with City requirements. Each Space within a Park or Campground will be marked and identified in compliance with City requirements. The marking and identification will be provided as part of the application for a license under Section 18-107. Existing Mobile Home Parks must be in compliance with requirements of this Section 18-120 within sixty (60) days of the Effective Date of this Ordinance.

18-121. APPEALS. Appeals from the interpretation or application of the provisions of this chapter by the City Administrator may be made to the City Council.

18-122. PENALTIES. Any person violating any provision of this chapter is guilty of a misdemeanor and will be punished by fine of not more than five hundred dollars ($500.00) and/or imprisonment of not more than six (6) months.

18-123. SEVERABILITY. If any section or provision of this chapter is for any reason held illegal, invalid or unconstitutional, such action shall not affect the remaining provisions of this chapter, which shall remain valid to the extent possible.

APPENDIX A - CHARTER ORDINANCES

NOTE: The charter ordinances included herein are for information only. Each of them contains the substance as adopted by the governing body but enacting clauses, publication clauses and signatures have been omitted to conserve space. Complete copies of each charter ordinance as adopted are on file in the office of the city clerk and with the Kansas secretary of state. Date of passage by the governing body of each charter ordinance is shown in parentheses at the end of the text.

CHARTER ORDINANCE NO. 2

A CHARTER ORDINANCE EXEMPTING THE CITY OF MAIZE, SEDGWICK COUNTY, KANSAS, FROM SECTIONS 7 AND 44 OF CHAPTER 274 OF THE 1968 SESSION LAWS OF KANSAS, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT PROVIDING FOR A REGULAR CITY ELECTION; PROVIDING FOR THE ELECTION OF MAYOR AND FIVE COUNCILMEN, TIE VOTE, THEIR TERMS OF OFFICE, QUALIFYING, FAILURE TO QUALIFY OR ACCEPT OFFICE; FILLING VACANCIES AND CERTIFICATES OF ELECTION AND REPEAL OF CHARTER ORDINANCE NO. 1 PREVIOUSLY PASSED HEREIN REGARDING THE SAME GENERAL SUBJECT.

Section 1. The City of Maize, Sedgwick County, Kansas, a mayor-council city of the third class, by the power vested in it by Article 12, Section 5, of the constitution of the State of Kansas, hereby elects to and exempts itself from and makes inapplicable to it Section 7 and Section 44 of Chapter 274 of the 1968 Session Laws of Kansas, and provides substitute and additional provisions as hereinafter provided.

Section 2. A regular city election shall be held on the first Tuesday in April, 1970, at which time shall be elected a mayor and two councilmen whose terms expire in said year under the provisions of Charter Ordinance No. 1 of said city. At the election in 1970 the mayor and two councilmen shall be elected for a three year term of office with their terms to expire in 1973.
A regular city election shall be held on the first Tuesday in April, 1971, at which time shall be elected three councilmen for four year terms of office. Another city election shall be held on the first Tuesday in April, 1973, at which time a mayor and two councilmen shall be elected for a four year term of office and thereafter regular city elections shall be held each odd numbered year for the mayor or councilmen whose terms expire at that time, for four year terms or until their successors are duly elected and qualified.

Section 3. Whenever a tie vote shall occur in the vote of any of the aforesaid officers, the result shall be decided by lot by the board of canvassers. The city clerk shall, within three days after the canvass of the returns and determination by the board of canvassers of the persons elected, deliver to such persons elected, a certificate of election, signed by him with the seal of the city and such certificate shall constitute notice of election. The terms of the officers shall begin at the first regular meeting of the council in May following their election in April and they shall qualify at any time before or at the beginning of said meeting. If any person elected to the office of councilman does not qualify within the required time, he shall be deemed to have refused to accept the office and a vacancy shall exist and thereupon the mayor shall, with the consent of the majority of the remaining councilmen, appoint a suitable elector of the city to fill the vacancy for the term which the refusing person was elected. In case of a vacancy in the office of councilmen occurring by reason of resignation, death or removal from office, or from the city, the mayor, by and with the consent of the majority of the remaining councilmen, shall appoint some

suitable elector of the city to fill the vacancy until the next election for that office. In case of a vacancy in the office of mayor occurring by reason of resignation, death, removal from office or from the city, the president of the council shall become mayor until the next regular election for that office and a vacancy shall occur in the office of the councilman becoming mayor.

(Repealed by C.O. No. 28-16)

CHARTER ORDINANCE NO. 3

A CHARTER ORDINANCE EXEMPTING THE CITY OF MAIZE, SEDGWICK COUNTY, KANSAS, FROM SECTION 79-5001 TO SECTION 79-5017, KANSAS STATUTES ANNOTATED AND ANY AMENDMENTS THERETO.

(Repealed by C.O. No. 7)

CHARTER ORDINANCE NO. 4

A CHARTER ORDINANCE EXEMPTING THE CITY OF MAIZE, KANSAS, FROM K.S.A. 79-5011; PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS OF THE SAME SUBJECT; AND AUTHORIZING THE LEVYING OF TAXES TO CREATE A SPECIAL FUND FOR THE PURPOSE OF PAYING UTILITY SERVICE COSTS.

Section 1. The City of Maize, 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 K.S.A. 79-5011 and to provide substitute and additional provisions as hereinafter set forth in this charter ordinance. K.S.A. 79-5011 is a part of an enactment of the legislature applicable to this city but not applicable uniformly to all cities.

Section 2. The provisions of K.S.A. 79-5001 to 79-5016, inclusive, shall not apply to or limit the levy of taxes by the City of Maize, Kansas for the payment of:

(a) Principal and interest upon bonds and temporary notes;
(b) No-fund warrants issued with the approval of the state board of tax appeals;
(c) Legal judgments rendered against the city;
(d) Rent due under any lease with a public building commission;
(e) Special assessments charged against the city at large;
(f) Utility service costs, whether paid from a separate property tax levy fund of the city or from any other tax supported fund.

Section 3. The provisions of Article 50 of Chapter 79 of the Kansas Statutes Annotated shall not apply to any taxes levied by the City of Maize, Kansas, levied under the provision of K.S.A. 40-2305, 74-4920, or to any tax levies required for the payment of employer contributions to any pension and retirement program, or to any other taxes authorized by state law to be levied in addition to or exempt from the aggregate levy limitation of the City of Maize, Kansas. Amounts produced from any levy specified or authorized in this charter ordinance, including any levy or purpose authorized to be levied in addition to or exempt from the aggregate levy limit of the city, shall not be used in computing any aggregate limitation under Article 50 of Chapter 79 of the Kansas Statutes Annotated.

Section 4. The City of Maize, Kansas, is hereby authorized to levy a tax for the purpose of paying utility costs. As used in this charter ordinance, utility service costs shall include payments made by the city to a water, electric or natural gas system, company or utility for the purpose of obtaining street lighting or traffic control signals or for the lighting, heating, cooling or

supplying of water or energy to any city building or facility or for the operation or performance of any function or service by the city.

(5-1-81)

CHARTER ORDINANCE NO. 5

A CHARTER ORDINANCE EXEMPTING THE CITY OF MAIZE, KANSAS, FROM THE PROVISIONS OF THE 1978 SUPPLEMENT TO KANSAS STATUTES ANNOTATED 74-1117, 71-1120, 75-1121 AND 75-1122, SO AS TO NOT REQUIRE SAID CITY TO MAINTAIN FIXED ASSET RECORDS AND ACCOUNTING.

Section 1. That the City of Maize, Kansas, a city of the third class, by virtue of the power vested in it by Article 12, Section 5, of the constitution of the State of Kansas, hereby elects to exempt itself and does hereby exempt itself from the provisions of K.S.A. 75-1117, 745-1120, 75-1120a, 75-1121, and 75-1122 as amended by the 1978 Supplements thereto, and makes said statutes inapplicable to said city insofar as said statutes require the City of Maize, Kansas, to maintain fixed asset records and accountings.

(5-15-81)

CHARTER ORDINANCE NO. 6

A CHARTER ORDINANCE PERTAINING TO MUNICIPAL COURT COSTS BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF MAIZE, KANSAS.

(Repealed by C.O. No. 9-84)

CHARTER ORDINANCE NO. 7

A CHARTER ORDINANCE EXEMPTING THE CITY OF MAIZE, SEDGWICK, COUNTY, KANSAS FROM SECTION 79-5001 TO SECTION 79-5017, KANSAS STATUTES ANNOTATED AND ANY AMENDMENTS THERETO.

Section 1. That pursuant to the provisions of Section 5, Article 12 of the constitution of the State of Kansas, the City of Maize, Sedgwick County, Kansas, hereby elects to exempt itself from and to make inapplicable to it Section 79-5001 to 79-5017, inclusive, K.S.A. and amendments thereto which apply to said city, but the provisions of which do not apply uniformly to all cities in Kansas. The City of Maize, Kansas elects to modify the aforesaid section as follows: Beginning with the 1983 budget, said city may elect to increase the aggregate tax levy limitations (provided in K.S.A. 79-5001 *et sq.*) a total of not to exceed five mills over the 1982 total aggregate tax levy limitation. In any budget year subsequent to the 1983 budget year, said city may elect to further increase such levy limitation a total of not to exceed three mills over the previous year's tax levy.

(4-9-82)

CHARTER ORDINANCE NO. 8

A CHARTER ORDINANCE EXEMPTING THE CITY OF MAIZE, KANSAS, FROM THE PROVISIONS OF K.S.A. 1978 SUPP. 75-1122, SO AS TO EXEMPT SAID CITY FROM THE REQUIREMENT OF HAVING AN ANNUAL AUDIT.

Section 1. That the City of Maize, Kansas, a city of the third class, who and by virtue of the power vested in it by Article 12, Section 5, of the constitution of the State of Kansas, hereby elects to exempt itself and does hereby exempt itself from the provisions of K.S.A. 1978 Supp. 75-1122 and makes said statutes inapplicable to the City of Maize, Kansas, thus exempting said city from the requirement of having an annual audit.

(4-23-82)

CHARTER ORDINANCE NO. 9-84

A CHARTER ORDINANCE RELATING TO MUNICIPAL COURT COSTS AMENDING SECTION 3 OF CHARTER ORDINANCE NO. 6.

(Repealed by C.O. No. 10-87)

CHARTER ORDINANCE NO. 10-85

A CHARTER ORDINANCE EXEMPTING THE CITY OF MAIZE, KANSAS, FROM A PORTION OF K.S.A. 15-204; PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SUBJECT OF THE APPOINTMENT OF A CITY ADMINISTRATOR AND OFFICER; AND AUTHORIZING THE APPOINTMENT OF A CITY ADMINISTRATOR, SETTING FORTH THE TERM OF APPOINTMENT AND PROVIDING FOR TERMINATION.

(Repealed by C.O. No. 12-88)

CHARTER ORDINANCE NO. 10-87

A CHARTER ORDINANCE ESTABLISHING MUNICIPAL COURT COSTS AND REPEALING CHARTER ORDINANCE NO. 6.

(Repealed by C.O. No. 14-94)

CHARTER ORDINANCE NO. 12-88

A CHARTER ORDINANCE PROVIDING FOR THE REPEAL OF CHARTER ORDINANCE NO. 10-85, EXEMPTING THE CITY OF MAIZE, KANSAS, FROM A PORTION OF K.S.A. 15-204 AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SUBJECT OF THE APPOINTMENT OF A CITY ADMINISTRATOR AND OFFICER.

Section 1. That Charter Ordinance No. 10-85 be and it is hereby repealed in its entirety.

(3-14-88)

CHARTER ORDINANCE NO. 13-90

A CHARTER ORDINANCE EXEMPTING THE CITY OF MAIZE, KANSAS, FROM K.S.A. 15-209, INSOFAR AS SAID STATUTE APPLIES TO THE APPOINTED OFFICERS OF THE CITY, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT,

ALLOWING APPOINTED CITY OFFICERS TO BE NON-RESIDENTS OF THE CITY OF MAIZE, KANSAS.

Section 1. The City of Maize, Kansas, a third class city, by power vested in it by Article 12, Section 5 of the constitution of the State of Kansas, hereby elects to exempt itself from the provisions of K.S.A. 15-209 insofar as said section applies to the appointment of non-residents of the city as appointed city officers.

Section 2. Appointed offices of the City of Maize, Kansas, need not be qualified electors of said city and may be nonresidents of said city but must be residents of the State of Kansas.

Section 3. Except as herein specifically provided, other provisions of K.S.A. 15-209 not pertaining to the residence of appointed city officers shall apply in all respects to the City of Maize, Kansas.

(12-13-90)

CHARTER ORDINANCE NO. 14-94

A CHARTER ORDINANCE EXEMPTING THE CITY OF MAIZE FROM CERTAIN PROVISIONS OF K.S.A. 12-4112; PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS WHICH RELATE TO THE ASSESSMENT OF COURT COSTS IN THE MUNICIPAL COURT OF MAIZE, KANSAS; AND REPEALING CHARTER ORDINANCES NUMBER 6, 9-84, AND 10-87.

(Repealed by C.O. No. 18-99)

CHARTER ORDINANCE NO. 15-96

A CHARTER ORDINANCE ESTABLISHING A QUORUM FOR THE GOVERNING BODY MEETINGS OF THE MAYOR AND CITY COUNCIL OF THE CITY OF MAIZE BY EXEMPTING THE CITY OF MAIZE, KANSAS, FROM THE PROVISIONS OF K.S.A. 15-106 AND PROVIDING SUBSTITUTE PROVISIONS ON THE SAME SUBJECT.

Section 1. Exemption. The City of Maize, Kansas, by virtue of the power vested in it by Article 12, Section 5 of the constitution of the State of Kansas, hereby does exempt itself and make inapplicable to it K.S.A. 15-106 which applies to this city but does not apply uniformly to all cities.

Section 2. Regular and Special Meetings. Regular meetings of the council shall be held at such times as shall be prescribed by ordinance, but not less than once each month. Special meetings may be called by the mayor or acting mayor, on written request of any three members of the council, specifying the object and purpose of such meeting, which shall be read at the meeting and recorded in the minutes of the meeting of the council. In all cases, it shall require four of the five councilmembers to constitute a quorum to do business, but a smaller number may meet from day to day and may compel the attendance of absent members in such manner and under penalties as the council, by ordinance may have previously prescribed.

(4-8-96)

CHARTER ORDINANCE NO. 16-96

A CHARTER ORDINANCE EXEMPTING THE CITY OF MAIZE, KANSAS, FROM THE PROVISIONS OF K.S.A. 1995 SUPP. 79-5028, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT REMOVING ANY LIMITATION OF AGGREGATE TAX LEVIES.

Section 1. The City of Maize, 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. 1995 Supp. 79-503(a), hereby elects to exempt itself from the provisions of K.S.A. 1995 Supp. 79-5028. K.S.A. 1995 Supp. 79-5028 is part of an enactment commonly known as the Kansas property tax lid law, which enactment applies to this city but does not apply uniformly to all cities.

Section 2. The following is hereby substitute for the provision of K.S.A. 1995 Supp. 79-5028: The provisions of K.S.A. 79=5021 to 79-5033, inclusive, and amendments thereto, shall not limit the levy of taxes by the governing body of the City of Maize, Kansas.

(6-11-96)

CHARTER ORDINANCE NO. 17-98

A CHARTER ORDINANCE EXEMPTING THE CITY OF MAIZE, KANSAS, FROM THE PROVISIONS OF K.S.A. 15-204 AND 15-209, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT FOR EMPLOYING, EVALUATING, AND RETAINING CITY OFFICERS.

Section 1. The City of Maize, 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 the provisions of K.S.A. 15-204 and K.S.A. 15-209, which enactment applies to this city but does not apply uniformly to all cities.

Section 2. The city council shall develop and implement policies and procedures for employing, evaluating and retaining or not retaining in employment all non-elected personnel, including those enumerated in K.S.A. 15-204.

(2-23-98)

CHARTER ORDINANCE NO. 18-99

A CHARTER ORDINANCE PROVIDING FOR THE REPEAL OF CHARTER ORDINANCE NO. 14-94 EXEMPTING THE CITY OF MAIZE FROM CERTAIN PROVISIONS OF K.S.A. 12-4112; PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS WHICH RELATE TO THE ASSESSMENT OF COURT COSTS IN THE MUNICIPAL COURT OF MAIZE, KANSAS.

Section 1. The City of Maize, 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 that part of K.S.A. 12-4112, and amendments thereto, pertaining to the assessment of court costs in the Municipal Court of Maize, Kansas, by substituting the following:

"Costs. No person shall be assessed costs for the administration of justice in any municipal court case, except for witness fees and mileage as set forth in K.S.A. 12-4411, and amendments thereto; and, in every municipal court case except parking violations, municipal court costs of $23.50 and a Maize Police Department Training Fee of $10, and for the

assessment required by K.S.A. 1998 Supp. 20-1a11 for the judicial branch education fund; and for the assessment required by K.S.A. 1998 Supp. 12-4117 and amendments thereto for the law enforcement training center fund established pursuant to K.S.A. 74-5619 and amendments thereto, the local law enforcement training reimbursement fund established pursuant to K.S.A. 74-5620 and amendments thereto; and the juvenile detention facilities fund as provided in K.S.A. 1998 Supp. 12-4117."

and hereby providing additional provisions as herein set forth.

Section 2. Costs may be assessed against accused persons for the administration of justice in any municipal court case where the accused person is found guilty or where the accused person pleads guilty. The costs shall be assessed in accordance with the terms herein contained.

If it appears to the court that the prosecution was instituted without probable cause and for malicious motives, the court may require the complaining witness or other person instituting the prosecution to appear and answer concerning his motives for instituting the prosecution. If, upon hearing, the court determines that the prosecution was instituted without probable cause and from malicious motives, all costs in the case shall be assessed against the complaining witness or other person initiating the prosecution.

At the conclusion of each municipal court case, the court shall where applicable, assess the costs against the party and provide a statement of such.

(6-28-99)

CHARTER ORDINANCE NO. 19-00

AN ORDINANCE AUTHORIZING THE CITY OF MAIZE TO LEVY A TAX FOR THE MULTI-YEAR CAPITAL IMPROVEMENT FUND ESTABLISHED UNDER THE PROVISIONS OF K.S.A. 12-1,118.

Section 1. Establishing the authority for tax levies for multi-year Capital Improvement Fund purposes. The City of Maize, Kansas, a Kansas city of the third class by the power vested in it under Article 12, Section 5 of the constitution of the State of Kansas, having adopted multi-year capital improvement priorities, elects to levy taxes to be used to finance, in whole or in part, any public improvement needed as set forth in the adopted capitol improvement plan. This plan may include the repair, restoration and rehabilitation of existing public facilities.

Section 2. Tax Levy and Limits thereon. The governing body of the City of Maize, Kansas, is hereby authorized and empowered to levy taxes of up to five mills in each year for the multi-year Capital Improvement Fund.

(7-21-2000)

CHARTER ORDINANCE NO. 20-04

A CHARTER ORDINANCE PROVIDING FOR THE REPEAL OF CHARTER ORDINANCE NO. 18-99, EXEMPTING THE CITY OF MAIZE, KANSAS FROM CERTAIN PROVISIONS OF K.S.A. 12-4112 PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS WHICH RELATE TO THE ASSESSMENT OF COURT COSTS IN THE MUNICIPAL COURT OF THE CITY OF MAIZE, KANSAS.

Section 1. Exemption from K.S.A. 12-4112. The City of Maize, Kansas, a city of third class by the power invested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby elects to and does exempt itself from and makes inapplicable to it, K.S.A. 12-4112, which applies to cities of the third class in a non-uniform manner. The City of Maize, Kansas, in addition, hereby provides substitute and additional provisions as herein set forth.

Section 2. Repeal. Charter Ordinance No. 18-99 is hereby repealed.

Section 3. Court Costs. No person shall be assessed costs for the administration of justice in any municipal court case, except for witness fees and mileage as set forth in K.S.A. 12-4411, and amendments thereto; and, in every municipal court case except parking violations, municipal court costs of $23.50 and a Maize Police Department Training Fee of $10, and for the assessment required by K.S.A. 20-1a11 for the judicial branch election fund; and for the assessment required by K.S.A. 12-4117 and amendments thereto for the law enforcement training center fund established pursuant to K.S.A. 74-5619 and amendments thereto, the local law enforcement training reimbursement fund established pursuant to K.S.A. 74-5620 and amendments thereto; and the juvenile detention facilities fund as provided in K.S.A. 12-4117. In addition, whenever the collection of municipal court fines and/or costs is referred to the State of Kansas for collection by the State of Kansas pursuant to K.S.A. 75-6201 et seq. and amendments thereto, the costs assessed by the State of Kansas for collecting such fine and/or costs shall be assessed as an added cost in an amount that does not exceed the State of Kansas charge for collecting such fine and costs. The actual amount of the additional charge shall be established by order of the municipal court judge and the amount set by the municipal court judge shall be automatically assessed in individual cases.

Section 4. Assessment of Costs. Costs may be assessed against accused persons for the administration of justice in any municipal court case where the accused person is found guilty or where the accused person pleads guilty. The costs shall be assessed in accordance with the terms herein contained. If it appears to the court that the prosecution was instituted without probable cause and for malicious motives, the court may require the complaining witness or other person instituting the prosecution to appear and answer concerning his motives for instituting the prosecution. If, upon hearing, the court determines that the prosecution was instituted without probable cause and from malicious motives, all costs in the case shall be assessed against the complaining witness or other person initiating the prosecution. At the conclusion of each municipal court case, the court shall, where applicable, assess the costs against the party and provide a statement of such.

(06-24-2004)

CHARTER ORDINANCE NO. 21-04

A CHARTER ORDINANCE EXEMPTING THE CITY OF MAIZE, SEDGWICK COUNTY, KANSAS, FROM CHAPTER 107 OF THE 2004 SESSION LAWS OF THE STATE OF KANSAS, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS OF THE SAME PERTAINING TO THE FILING OF A LIEN UPON REAL ESTATE SERVED BY THE CITY OF MAIZE, SEDGWICK COUNTY, KANSAS WITH WATER AND/OR SEWER WHEN THE SERVICE CHARGE FIXED BY THE GOVERNING BODY REMAINS UNPAID, WHETHER OR NOT THE SERVICE IS CONTRACTED FOR BY SOMEONE OTHER THAN THE LANDLORD.

Section 1. Election to Exempt. The City of Maize, Sedgwick County, Kansas (the "City") by the power vested in Article 12, Section 5 of the Constitution of the State of Kansas, hereby elects to

exempt itself from and make inapplicable to it, Chapter 107 of the 2004 Session Laws of the State of Kansas (a non-uniform in application act) by providing substitute and additional provisions as follows:

Section 2. Definitions. For purposes of this Charter Ordinance "Utility Services" shall include water, sewer and other utility services provided by the City.

Section 3. Liability of Property Owner; Lien. (a) Lessors of leased premises served by Utility Services furnished by the City shall be ultimately liable for payment of the cost of any utility service furnished by the City to such leased premises, whether the service is furnished upon the application and request of the lessor or the lessee of such premises. (b) If Utility Service is furnished by the City to leased premises, upon the application and request of the lessee, then all billings for such service furnished shall be made to the lessee. However, if the cost of such service is not paid, as and when they become payable, the lessor of the premises served shall be liable for the payment of such cost, plus all interest and penalties as provided by the laws of the City. (c) If Utility Service is furnished to leased premises on the application and request of the lessor of the premises, then all billings for utilities furnished to such leased premises shall be made directly to the lessor, and the lessor shall be fully liable for the cost of service furnished. (d) Such charges shall constitute a lien upon the real estate served, and shall be certified by the city clerk to the county clerk, to be placed on the tax roll for collection, subject to the same penalties and collected in like manner as other taxes collectible by law. (e) If the City terminates water and/or sewer services under authority of Sections 15-103 and 15-104, and amendments thereto, of the Code of the City then the City may refuse to deliver water through the pipes and mains of its water system until such time as water and/or sewer charges are paid in full.

Section 4. Rates. The governing body of the City shall establish such rates and charges for water and for the use of the sewage disposal system as shall be reasonable and sufficient to pay the cost of operation, repairs, maintenance, extension and enlargement of the water and sewage system and improvements thereof and new construction and the payment of any bonds and the interest thereon as may be issued for such water and sewage system. Such revenue may be used to pay revenue bonds or general obligation bonds payable by the City at large issued for either waterworks system or sewage disposal system before the systems were combined or for the water and sewage system after they have been combined.

(11-29-2004)

CHARTER ORDINANCE NO 22-06

A CHARTER ORDINANCE AMENDING AND REPEALING CHARTER ORDINANCE NO 18-99 OF THE CITY OF MAIZE, KANSAS; PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT RELATING TO ESTABLISHING COURT COSTS IN THE CITY OF MAIZE, KANSAS MUNICIPAL COURT.

Section 1. Substitute Provisions. The City of Maize, 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 the provisions of K.S.A. 12-4112, as amended by Substitute for House Bill No. 2113 in the 2006 Kansas Legislative Session and for providing substitute and additional provisions as hereinafter set forth in this Charter Ordinance.

Section 2. Court Costs. Court costs to be assessed by the Municipal Court of the City of Maize, Kansas shall be initially established and from time to time amended by the adoption of a simple ordinance by the Governing Body of the City of Maize, Kansas.

Section 3. Repeal. Charter Ordinance No. 18-99 of the City of Maize Kansas is hereby repealed.

(06-26-2006)

CHARTER ORDINANCE NO. 23-08

A CHARTER ORDINANCE OF THE CITY OF MAIZE, KANSAS, REPEALING CHARTER ORDINANCE NO. 15-96.

Section 1. Repeal. Charter Ordinance No. 15-96 is hereby repealed.

(07-21-2008)

CHARTER ORDINANCE NO. 24-10

A CHARTER ORDINANCE EXEMPTING THE CITY OF MAIZE, KANSAS, FROM THE PROVISIONS OF K.S.A. 12-1697 RELATING TO IMPOSITION OF A TRANSIENT GUEST TAX UPON SLEEPING ACCOMMODATIONS WITHIN THE CITY, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS THEREFOR.

Section 1. The City of Maize, Kansas, a city of the third 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 make inapplicable to it, the provisions of K.S.A. 12-1697, and to provide substitute and additional provisions as hereinafter set forth in the ordinance. Such referenced provision of Kansas law is either an enactment or part of an enactment which is inapplicable to this city, but is not applicable uniformly to all cities.

Section 2. Transient guest tax. (a) In order to provide revenues to promote tourism and conventions, the governing body of the City is hereby authorized to levy a transient guest tax at a rate not to exceed twelve percent (12%) upon the gross receipts derived from or paid by transient guests for sleeping accommodations, exclusive of charges for incidental services or facilities, in any hotel, motel or tourist court located within the City. The rate of any such tax shall be fixed from time to time by ordinance of the City. (b) Any transient guest tax levied pursuant to this Charter Ordinance shall be based on the gross rental receipts collected by any business. (c) The taxes levied pursuant to this charter ordinance shall be paid by the consumer or user to the business and it shall be the duty of each and every business to collect from the consumer or user the full amount of any such tax, or an amount equal as nearly as possible or practicable to the average equivalent thereto. Each business collecting any of the taxes levied hereunder shall be responsible for paying over the same to the State Department of Revenue in the manner prescribed by K.S.A. 12-1698, and amendments thereto.

(01-20-11)

CHARTER ORDINANCE NO. 25-11

A CHARTER ORDINANCE EXEMPTING THE CITY OF MAIZE, KANSAS, FROM THE PROVISIONS OF K.S.A. 15-301, WHICH ADDRESSES CERTAIN DUTIES A MAYOR HAS IN

A THIRD CLASS CITY, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS THAT ADDRESS THOSE DUTIES.

Section 1. The City of Maize, Kansas, by powers 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 K.S.A. 15-301, which applies to the City but does not apply uniformly to all cities.

Section 2. Duties of the Mayor. The Mayor shall preside at all meetings of the City Council, and shall have a casting vote when the Council is equally divided.

Section 3. Duties of the City Administrator. The City Administrator shall be responsible for the administration of the affairs of the City. The City Administrator shall see that the laws and ordinances are enforced. The City Administrator shall appoint and remove all employees of the City, except the City Attorney and the Municipal Court Judge. All appointments for employment with the City shall be made upon merit and fitness alone. The City Administrator, the City Attorney and the Municipal Court Judge shall be appointed by the Mayor subject to the consent of the City Council. The City Administrator, the City Attorney and the Municipal Court Judge shall serve at the pleasure of the City Council.

(01-16-2012)

CHARTER ORDINANCE NO. 26-14

A CHARTER ORDINANCE EXEMPTING THE CITY OF MAIZE, KANSAS, FROM K.S.A. 10-1210 AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT RELATING TO THE ISSUANCE OF UTILITY REVENUE BONDS.

Section 1. Exemption. The City of Maize, 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 K.S.A. 10-1210, and does hereby provide the following substitute and additional provisions in place thereof:

> The governing body, by a two-thirds vote of the members thereof, may contract for or make repairs, alterations, extensions, reconstructions, enlargements or improvements of any of its municipally owned utilities and issue or cause to be issued revenue bonds in payment of the cost thereof without submitting to a vote of the electors of such municipality the proposal to contract for or to make such repairs, alterations, extensions, reconstructions, enlargements or improvements and to issue such bonds in payment of the cost thereof: Provided, that such alterations, extensions or improvements will not cause duplication of existing utility service furnished by a private utility.

(06-16-2014)

CHARTER ORDINANCE NO. 27-15

A CHARTER ORDINANCE OF THE CITY OF MAIZE, KANSAS, EXEMPTING SUCH CITY FROM THE PROVISIONS OF K.S.A. 12-1758 AND K.S.A. 12-1767 RELATING TO PUBLIC BUILDING COMMISSIONS AND THE ISSUANCE OF REVENUE BONDS THEREBY, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS RELATING THERETO.

Section 1. Exemption – K.S.A. 12-1758. The City, by the power vested in it by the Act, hereby elects to exempt itself from and make inapplicable to it the provisions of K.S.A. 12-1758 and does hereby provide the following substitute and additional provisions in place thereof:

(a) The City, by appropriate ordinance, may create a public building commission for any one or more of the purposes of acquiring fee simple title or a leasehold interest in one or more sites, and of constructing, reconstructing, equipping and furnishing, or purchasing or otherwise acquiring, one or more buildings, improvements to public parks, or other facilities of any kind which are of a revenue producing character, including indoor and outdoor parking and recreational facilities, and including any type of equipment in relation to any of the foregoing. Any such sites, buildings, facilities or equipment shall be maintained and operated for any public purpose by any city, county or school district, by any federal governmental agency or instrumentality, by the State of Kansas or any agency or instrumentality thereof, by any other municipal or quasi-municipal corporation, political subdivision or body politic or agency or instrumentality thereof, or by any non-profit corporation organized under the laws of the State of Kansas.

(b) A public building commission created by the City may acquire fee simple title or a leasehold interest in land, buildings and facilities adjacent to or near any educational institution under the supervision and/or control of the state board of regents or may acquire by lease land, buildings and facilities constituting a part of the campus of any such institution. Any public building commission may construct, reconstruct, equip and furnish such buildings or facilities on such land and lease such land, buildings and facilities to the official governing body of such institution. Any such lease entered into shall pledge the net revenue from such land, buildings and facilities.

Section 2. Exemption – K.S.A. 12-1767. The City, by the power vested in it by the Act, hereby elects to exempt itself from and make inapplicable to it the provisions of K.S.A. 12-1767 and does hereby provide substitute and additional provisions in place thereof as follows:

(a) Any revenue bonds proposed to be issued by a public building commission created by the City shall be issued as provided in K.S.A. 10-1201 *et seq.*, and amendments thereto, except to the extent that such statutes are in conflict with K.S.A. 12-1757 *et seq.*, as amended by this Charter Ordinance. Before any revenue bonds are authorized or issued under the provisions of K.S.A. 12-1757 *et seq.*, as amended by this Charter Ordinance, the public building commission shall adopt a resolution specifying the amount of such bonds and the purpose of the issuance thereof.

(b) The resolution adopted by such public building commission shall be published one time in the official City newspaper and in a newspaper having general circulation in the county where the City is located if the lease is with such county or a school district located within such county. The resolution shall become effective upon such publication(s). If the public building commission intends to enter into a lease with a county or school district the resolution shall contain, and if the public building commission is entering into a lease with the City or any other authorized entity the resolution may contain a provision that if within 30 days

after the last required date of publication of the resolution, a petition in opposition to the resolution, signed by not less than 5% of the electors of the City, or 5% of the electors of the county or school district if the lease is with such entities, is filed with the Clerk of the City, the public building commission shall not have the authority to issue such bonds until such question is submitted by the election officer of the county where the City is located to the electors of the entity proposing to enter into the lease with the public building commission at an election called for that purpose or at the next general election. As an alternative to the foregoing, the resolution may require that the public building commission shall not have the authority to issue such bonds until such question is submitted by the election officer of the county where the City is located to the electors of the entity proposing to enter into the lease with the public building commission at an election called for that purpose or at the next general election. Any such election shall be conducted in the manner set forth in K.S.A. 10-120.

(c) No construction contract shall be let or approved by a public building commission until after the publication of the resolution adopted pursuant to ***subsection (a)*** hereof, or if such resolution contains a provision requiring a provision for protest or an election upon the expiration of the protest period or a successful election, if required, as provided under ***subsection (b)*** hereof.

CHARTER ORDINANCE NO. 28-16

A CHARTER ORDINANCE AMENDING CHARTER ORDINANCE NO. 2 EXEMPTING THE CITY OF MAIZE, KANSAS, FROM THE PROVISIONS OF K.S.A. 15-201 RELATING TO THE ELECTION OF OFFICERS, THEIR TERMS OF OFFICE, TRANSITIONS TO NOVEMBER ELECTIONS, THE FILLING OF GOVERNING BODY VACANCIES, AND NOMINATION PETITIONS; AND, PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT AND TIE ELECTION VOTES; AND REPEALING CHARTER ORDINANCE NO. 2.

Section 1. The City of Maize, Kansas, by the power vested in it by Article 12, Section 5 of the Kansas Constitution, hereby elects to and does exempt itself and make inapplicable to it the provisions of K.S.A. 15-201, which applies to this city, but is part of an enactment which does not apply uniformly to all cities.

Section 2. The governing body shall consist of a mayor and five council members to be elected to terms as set forth herein. The mayor and council members shall be residents and qualified electors of the City of Maize, Kansas.

Section 3. Those governing body positions with terms expiring in April 2017, shall expire on the second Monday in January of 2018, when the city officials elected in the November 2017 general election take office. Those governing body positions with terms expiring in April 2019 shall expire on the second Monday in January of 2020, when the city officials elected in the November 2019 general election take office.

Section 4. General elections shall take place on the Tuesday succeeding the first Monday in November 2017. Succeeding elections will be held every two years for all such governing body positions whose terms have expired. A mayor and two council members shall be elected at one

election, and the remaining three council members shall be elected at the succeeding election. The mayor and all council members shall have four year terms.

Section 5. In case of a vacancy in the council occurring by reason of resignation, death, or removal from office or from the city, the mayor, by and with the advice and consent of the remaining council members, shall appoint an elector to fill the vacancy until the next election for that office. In case any person elected as a council member neglects or refuses to qualify within 30 days after election, the council member shall be deemed to have refused to accept the office and a vacancy shall exist. The mayor may, with the consent of the remaining council members, appoint a suitable elector to fill the vacancy.

Section 6. In case of a vacancy in the office of mayor, the president of the council shall become mayor until the next regular election for that office and a vacancy shall occur in the office of the council member becoming mayor.

Section 7. Whenever a tie vote shall occur in the vote of any of the aforesaid officers, the result shall be decided by lot by the board of canvassers. The city clerk shall, within three days after the canvass of the returns and determination by the board of canvassers of the persons elected, deliver to such persons elected a certificate of election signed by the city clerk with the seal of the city, and such certificate shall constitute notice of election. The terms of the officers shall begin at the first regular meeting of the council in May following their election in April and they shall qualify at any time before or at the beginning of said meeting. If any person elected to the office of councilman does not qualify within the required time, he shall be deemed to have refused to accept the office and a vacancy shall exist and thereupon the mayor shall, with the consent of the majority of the remaining councilmen, appoint a suitable elector of the city to fill the vacancy for the term which the refusing person was elected. In case of a vacancy in the office of councilmen occurring by reason of resignation, death or removal from office, or from the city, the mayor, by and with the consent of the majority of the remaining councilmen, shall appoint some suitable elector of the city to fill the vacancy until the next election for that office. In case of a vacancy in the office of mayor occurring by reason of resignation, death, removal from office or from the city, the president of the council shall become mayor until the next regular election for that office and a vacancy shall occur in the office of the councilman becoming mayor.

(02-15-16)

APPENDIX B - FRANCHISES

ORDINANCE NO. 288

AN ORDINANCE GRANTING A FRANCHISE TO CREST COMMUNICATIONS, INC., A CORPORATION EXISTING UNDER THE GENERAL BUSINESS LAWS OF THE STATE OF KANSAS, ITS SUCCESSORS AND ASSIGNS, TO OPERATE AND MAINTAIN A COMMUNITY ANTENNA TELEVISION SYSTEM IN THE UNINCORPORATED AREA SURROUNDING MAIZE THAT LIES WITHIN U.S.D. #266; SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF THE FRANCHISE; PROVIDING FOR CITY REGULATION AND USE OF THE COMMUNITY ANTENNA TELEVISION SYSTEM; AND PRESCRIBING PENALTIES FOR THE VIOLATION OF THE FRANCHISE PROVISIONS.

Section 1. This ordinance shall be known as the Maize Interlocal Community Antenna Television Franchise Ordinance No. 288.

Section 2. For the purposes of this ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the singular number include the plural number. The word shall is always mandatory and not merely directory.

(a) City is the City of Maize, State of Kansas.

(b) Council is the city council of the city.

(c) Community Antenna Television System hereafter referred to as CATV system or system, means a system of coaxial cables or other electrical conductors and equipment used or to be used primarily to receive television or radio signals directly or indirectly off-the-air and transmit them to subscribers for a fee.

(d) Person is any person, firm, partnership, association, corporation, company or organization of any kind.

(e) Grantee is Crest Communications, Inc., or anyone who succeeds it.

(f) Franchise shall mean and include any authorization granted hereunder in terms of a franchise, privilege, permit, license or otherwise to construct, operate and maintain a CATV system in the unincorporated area surrounding Maize that lies within U.S.D. #266.

(g) Property of Grantee shall mean all property owned, installed or used by grantee in the conduct of a CATV business in the city under the authority of a franchise granted pursuant to this ordinance.

(h) Street shall mean the surface of the space above and below any public street, road, highway, freeway, lane, path, alley, court, sidewalk, parkway or drive, now or thereafter existing as such within the franchise area.

(i) Subscriber shall mean any person or entity receiving for any purpose the CATV service of the grantee.

(j) Gross Subscriber Base Revenue shall mean those monies received by grantee from its regular CATV subscribers during the operation of the regular CATV business within the franchise area and shall not include any other income of the CATV system.

Section 3. Grantee of Non-Exclusive Authority. There is hereby granted by the city to the grantee the non-exclusive right and privilege to construct, erect, operate an maintain, in, upon, along, across, above, over and under the streets, alleys, public ways and public places now laid out or dedicated, and all extensions thereof, and additions thereto, in the franchise area, poles, wires, cables, underground conduits, manholes, and other television conductors and fixtures necessary for the maintenance and operation in the franchise area of a CATV system for the interception, sale and distribution of television and radio signals.

Section 4. Compliance with Applicable Laws and Ordinances. The grantee shall, at all times during the life of this franchise, be subject to all lawful exercise of authority by the city.

Section 5. Territorial Area Involved. This franchise relates to the boundaries of U.S.D. #266.

Section 6. Indemnification. The grantee shall maintain, and by its acceptance of this franchise specifically agrees that it will maintain throughout the term of this franchise liability insurance insuring the city and the grantee with regard to all damages in the following amounts:
(a) Comprehensive General Liability — Single Limit — $1,000,000 per occurrence, irrespective of whether occurrence consists of bodily injury, death, property damage or combinations thereof.
(b) Workmen's Compensation coverage covering all of grantee's employees.

Section 7. Signal Quality Requirements. The grantee shall produce a picture, whether in black and white or in color, that shall be as good as the state of the art allows accompanied with proper sound on typical standard production TV sets in good repair.

Section 8. Operation and Maintenance of System. The grantee shall render efficient service, make repairs promptly and interrupt service only for good cause and for the shortest time possible. Such interruption insofar as possible shall be preceded by notice and shall occur during periods of minimum use of the system.

Section 9. Carriage of Signals — Program Alteration. Grantee shall receive and distribute television and radio signals which are disseminated to the general public without charge by broadcasting stations licensed by the Federal Communications Commission, and shall comply with all regulations of the Federal Communications Commission regarding the carriage of the programming of any existing or future television broadcasting, program alteration, advertising, and such other regulations hereinafter promulgated by the Federal Communications Commission.

Section 10. Service. The grantee shall, upon request, provide a "drop service" at no cost to the following locations in the city for the purposes of public education and information: a public-owned building, parochial schools and public schools within service area. A "drop service" shall mean that one service connection shall be made available to each site specified with no internal wiring being required on behalf of the grantee, such internal wiring to be and remain the responsibility of the individual site concerned.

Section 11. Emergency Use of Facilities. In the case of any emergency or disaster, the grantee shall, upon request of the city, make its facilities available to the city for emergency use.

Section 12. Other Business Activities. This franchise authorizes only the operation of a CATV system as provided for herein and does not take the place of any other license or permit which might be required by law.

Section 13. Safety Requirements. (a) The grantee shall install and maintain its facility in accordance with the requirements of the National Electrical Safety Code as Promulgated by the National Bureau of Standards and Department of the Interior. (b) The grantee shall maintain a sufficient force of employees to provide adequate and prompt service for its facilities.

Section 14. New Developments. It shall be the policy of the city to liberally amend this franchise, upon application of the grantee, when necessary to enable the grantee to take advantage of any developments in the field of transmission of television and radio signals which will afford it an opportunity more effectively, efficiently, or economically to serve its customers.

Section 15. Conditions of Street Occupancy. (a) All transmission and distribution structures erected by the grantee within the franchise area shall be so located as to cause minimum interference with the proper use of streets, alleys, and other public areas and places. (b) In case of grantee's disturbance of any street, sidewalk, alley or public area, the grantee shall, at its own expense, replace and restore such street, sidewalk, alley, or public area. (c) The grantee shall, on the request of any person holding a building permit issued by the proper authority, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal or raising or lowering of wires shall be paid by the person requesting the same, and the grantee shall have the authority to require such payment in advance. The grantee shall be given not less than 15 days advance notice to arrange for such temporary wire changes. (d) In all sections of the franchise area where the cables, wires, or other like facilities of public utilities are placed underground, the grantee shall place its cables, wires and other like facilities underground, to the maximum extent that existing technology reasonably permits.

Section 16. Preferential or Discriminatory Practices Prohibited. The grantee shall not, as to rates, charges, service, service facilities, employment, rules, regulations, or in any other respect, make or grant any undue preference of advantage to any person, nor subject any person to prejudice or disadvantage and shall comply with the Federal Civil Rights Act.

Section 17. Removal of Facilities Upon Request. Upon termination of service to any subscriber, the grantee shall remove all its facilities and equipment from the premises upon request.

Section 18. Transfer of Franchise. The grantee may transfer this franchise to entity with prior approval of the city, which approval shall not be unreasonably withheld.

Section 19. Filings and Communications with Regulatory Agencies. Copies of all petitions and applications submitted by the grantee to the Federal Communications Commission or any other federal or state regulatory commission shall also be available to the city.

Section 20. City Inspection. (a) The city shall have the right to inspect the maps, plans, books, records, and other like materials of the grantee at any time during normal business hours at the expense of the city. (b) The city shall have the right to inspect all construction or installation work performed subject to the provisions of this franchise as is reasonable to insure compliance with same.

Section 21. Plans and Reports. (a) The grantee shall file with the city engineer true and accurate plans of its plants. (b) The grantee shall file annually with the city clerk, not later than 90 days after the end of the grantee's fiscal year, a verification by a certified public accountant, as to the gross subscriber base revenue of grantee for the preceding fiscal year, reflecting in such verification the resultant franchise fee.

Section 22. Payment to the City. The grantee, after the system is operational, shall pay to the city annually an amount equal to three percent of the gross subscriber base revenues.

Section 23. Forfeiture of Franchise. In addition to all other rights pertaining to the city by virtue of this franchise or otherwise, the city reserves the right, following a public hearing held pursuant to applicable statutes and to which grantee is an indispensable party, to terminate this franchise in the event that the grantee violates any rules, order, or determination of the city made pursuant to this franchise, except where such violation is without fault or through excusable neglect.

Section 24. Duration of Franchise. (a) This franchise shall take effect and be in force from and after final passage hereof, as provided by law, and shall continue in force and effect for a term of 10 years.

Section 25. Common User of Poles. Where a proposed joint-user desires to make use of the poles or other wire-holding structures of the grantee, such use will be allowed at the same price per pole as grantee is paying the utility companies provided such use can be made without interruption to grantee's facility. All change-outs shall be at the expense of the proposed joint-user and subject to approval of grantee's engineer. No poles shall be erected in or removed from a franchise area right-of-way by the grantee without prior approval of the city engineer.

Section 26. Number of Channels. The grantee's cable distribution system shall be capable of carrying at least 35 television channels.'

Section 27. Rates. The following rates and charges are hereby authorized for service under this franchise to be effective upon the date of the signing hereof. These rates shall not be exceeded, except that they may be adjusted on the anniversary date of this franchise based on increases in the Private Transportation Index of the National Consumer Price Index as indicated by the U.S. government. Thereafter, increases in the rate schedule may be made by the grantee providing the city is notified thereof in writing 45 days prior to the proposed change. If no action is taken within the 45 days, the proposed change shall be effective immediately thereafter. If the city objects to the proposed change, it may during the aforementioned time limit, hold a public hearing affording due process to which the grantee is an indispensable party. Following the hearing the city must act affirmatively or negatively within 60 days of the date of the meeting. If the city fails to act, the proposed increase shall become effective. If the city should at negatively upon the proposed increase, it must at that time, notify the grantee in writing stating its reasons.

Residential Rates.
(a) Original connection charge, single television outlet (except that if underground cable is used to connect from pole to house, additional charge of 15¢ per foot will be made) — $20. (b) Additional television outlets, each (installation) — $7.50. (c) Relocating outlet charge, each — $7.50. (d) Reconnection charge (when customer has previously subscribed to service) — $7.50. (e) Monthly service charge, single television outlet — $7.75. (f) Additional television outlets, each (monthly) — $1.50.

Pay TV Rates
(a) Installation — $20.
(b) Monthly service charge — $9.70.

Commercial Rates
(a) **Installation Charges:**
Hotels, motels, apartments, hospitals and similar mass receivers, single television outlet — $20. Wiring and installation of additional units actual cost of material and labor. (b) **Wiring Service Charge:**
First Outlet — $7.75.
Next 15 Units — $4.50.
Next 35 Units — $4.25.
Over 51 units — $4.
Where there is more than 150 feet of distance from cable to connection of service to subscriber, grantee will charge for installation on the basis of costs of material and labor. If in the future, the State of Kansas regulates the rates of the grantee for the service provided for in this franchise, this section shall be of no effect during such state regulation to the extent of any conflict therewith.

Section 28. Pole Use Fee. The grantee shall negotiate a contract with the owner of the poles to which grantee attaches its transmission cables or devices.

Section 29. Costs. The grantee shall assume the cost of publication of this franchise if such publication is required by law, and any other costs incurred in connection therewith. This shall be published one time.

Section 30. Modification. Any modification of the provisions of the rules and regulations of the Federal Communications Commission shall be incorporated into this franchise agreement within one year of the adoption of the modification or at the time of franchise renewal, whichever occurs first.

Section 31. Separability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutionally by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independence provisions and such holding shall not affect the validity of the remaining portions hereof.
(6-23-80)

ORDINANCE NO. 321

AN ORDINANCE DEFINING THE MANNER AND PLACE OF CONSTRUCTION OF THE LINES OF THE SOUTHWESTERN BELL TELEPHONE COMPANY AND PROVIDING FOR AN ANNUAL PAYMENT TO BE MADE TO THE CITY OF MAIZE, KANSAS.

Section 1. The Southwestern Bell Telephone Company, its successors and assigns (herein referred to as telephone company) shall continue to operate its telephone system and all business incidental to or connected with the conducting of a telephone business and system in the City of Maize, State of Kansas (herein referred to as city). The plant construction and appurtenances used in or incident to the giving of telephone service and to the maintenance of a telephone business and system by the telephone company in the city shall remain as now constructed, subject to such changes as may be considered necessary by the city in the exercise of its inherent powers and by the telephone company in the conduct of its business, and the telephone company shall continue to exercise its right to place, remove, construct, and reconstruct, extend and maintain its plant and appurtenances as the business and purposes for which it is or may be incorporated from time to time require, along, across, on, over, through, above and under all the public streets, avenues, alleys, bridges, and the public grounds and places within the limits of the city as the same from time to time may be established.

Section 2. That for the period May 1, 1982, to April 30, 1983, inclusive, the telephone company shall pay the city on July 1, 1982, a sum equal to three percent of the class of service revenues for local exchange telephone communication service rendered wholly within the corporate limits of the City of Maize during the 12 month period immediately preceding May 1, 1982, and annually, 60 days after the end of the period to which the payment shall apply, a like sum based upon three percent of the class of service revenues derived from local exchange telephone communication service during the 12 months immediately preceding the first day of May of the year for which such payment is made, being a term of five years ending April 30, 1987, and for successive terms of life duration, unless within four months prior to the expiration of the initial term or of the successive terms ending on each fifth anniversary, written notice is given one party to the other of its intention to terminate the same at the expiration of the

then current five year term; it being expressly understood that each five year term provides for five annual payments; the payments to be in lieu of all other licenses, charges, fees or impositions (other than the usual general or special ad valorem taxes) which might be imposed by the city under authority conferred by law. This agreement may also be terminated forthwith by the telephone company if authority to collect the amounts of such payments from its customers within the city shall be removed, cancelled, or withheld by legislative or regulatory act. The telephone company shall also have the privilege of crediting such sums with any unpaid balance due the company for telephone service rendered or facilities furnished to the city.

Section 3. The telephone company on the request of any applicant shall remove or raise or lower its wires temporarily to permit the moving of houses or other structures. The expense of such temporary removal, raising or lowering of wires shall be paid by the party or parties requesting the same, and the telephone company may require such payment in advance. The telephone company shall be given not less than 15 days written notice from the applicant detailing the time and location of the moving operations, and not less than 24 hours advance notice from the applicant advising of the actual operation.

Section 4. Permission is hereby granted to the telephone company to trim trees upon and overhanging streets, alleys, sidewalks and public places of the city so as to prevent the branches of such trees from coming in contact with the wires and cables of the telephone company, all the trimming to be done under the supervision and direction of any city official to whom the duties have been or may be delegated.

Section 5. Nothing in this ordinance shall be construed to require or permit any telephone, electric light, or power wire attachments by either the city or the telephone company on the poles of the other. If such attachments are desired by the city or the telephone company, then a separate non-contingent agreement shall be a prerequisite to such attachments.

Section 6. Nothing herein contained shall be construed as giving to the telephone company any exclusive privileges, nor shall it affect any prior or existing rights of the telephone company to maintain a telephone system within the city.

Section 7. All other ordinances and agreements and parts of ordinances and agreement relating to the operation of a telephone system within the city are hereby repealed.

Section 8. The telephone company shall have 60 days from and after its passage and approval to file its written acceptance of this ordinance with the city clerk, and upon such acceptance being filed, this ordinance shall be considered as taking effect and being in force from and after the date of its passage and approval by the mayor.
(4-30-82)

ORDINANCE NO. 543

AN ORDINANCE GRANTING PEOPLES NATURAL GAS, A DIVISION OF UTILICORP UNITED INC., A DELAWARE CORPORATION, ITS SUCCESSORS AND ASSIGNS, A NATURAL GAS FRANCHISE AND THE RIGHT TO CONSTRUCT, OPERATE, MAINTAIN, AND EXTEND A NATURAL GAS DISTRIBUTION PLANT AND SYSTEM, IN THE CITY OF MAIZE, KANSAS; PRESCRIBING THE TERMS OF SAID GRANT AND RELATING THERETO; AND REPEALING ORDINANCE NO. 281.

Section 1. Definitions: Unless otherwise specified, the following terms as used in this chapter shall mean as follows:
City and Grantor — shall mean the City of Maize, Kansas.
Company and Grantee — shall mean Peoples Natural Gas Company.
Distributed or Distribution — shall mean all sales, distribution, or transportation of gas not sold by the company to any consumer or user within the City by the Company or by others through the Facilities of the Company in the Right-of-Way.
Facilities — shall mean natural gas mains, pipes, boxes, reducing and regulating stations, laterals, conduits and service extension, together with all necessary appurtenances thereto.
Gross Receipts — shall mean any and all compensation and other consideration derived directly or indirectly by company from any distribution of natural gas to a consumer for any use, including domestic, commercial, and industrial purposes, and including without limitation interruptible sales and single sales; and shall include revenues from any operation or use of any or all of the facilities in the right-of-way by the company or others including without limitation charges as provided in tariffs filed and approved, and shall also include all fees or rentals received by the company for the lease or use of pipeline capacity within the corporate limits of the city, but such term shall not include revenue from certain miscellaneous charges and accounts as set forth in the terms and conditions of gas service on file and approved, including but not limited to connection and disconnection fees, reconnection fees, customer project contributions, returned check charges, temporary service charges, and delayed or late payment charges as such terms are used in tariffs filed and approved.
MCF — shall mean a measurement of natural gas equal to one thousand cubic feet. It is assumed for purposes of this ordinance that one MCF equals 1,000,000 British Thermal Units (BTUs).
Public Improvement — shall mean any existing or contemplated public facility, building, or capital improvement project, including without limitation streets, alleys, sidewalks, sewer, water, drainage, right-of-way improvement and public projects.
Public Project — shall mean any project planned or undertaken by the city or any governmental entity for construction, reconstruction, maintenance, or repair of public facilities or improvements, or any other purpose of a public nature.
Right-of-Way — shall mean present and future streets, alleys, rights-of-way, and public easements, including easements dedicated in plats of the city for streets, and alleys.
Streets — shall mean the entire width between property lines of land, property or an interest therein of every way publicly maintained where any part thereof is open

to the use of the public for purposes of vehicular traffic, including street, avenue, boulevard, highway, expressway, alley or any other public way for vehicular travel by whatever name.
Transport Gas — shall mean all natural gas transported by the company or by others, but not sold by the company, to any consumer or user within the city through the facilities of the company in the right-of-way.
Volumetric Rate — shall mean seven cents per MCF of transport gas or such amounts as may hereafter be determined and set in accordance with the provisions of section 4(d).

Section 2. Grant. (a) There is hereby granted to company, the non-exclusive right, privilege, and franchise to construct, maintain, extend, and operate its facilities in, through, and along the right-of-way of the city for the purpose of supplying natural gas to the city and the inhabitants thereof for the full term of this franchise; subject, to the terms and conditions herein set forth. Nothing in this grant shall be construed to franchise or authorize the use of the company∗s facilities or the right-of-way, by the company or others, for any purpose other than the provision of natural gas. The company will not allow a subsidiary, affiliate, or a third party to acquire rights to occupy the right-of-way under this franchise; provided, that nothing in this section shall prevent company from allowing the use of its facilities by others when such use is compensated to the city under the provisions of this franchise. (b) Company shall not enter into or continue any arrangement by which natural gas owned by any party other than company shall be transported, distributed, or sold through any portion of company∗s facilities in the right-of-way for delivery to any person within the city unless the city is compensated for such use by the company, transporter, consumer, or some other party. (c) By this franchise, the company is granted the authority to collect on behalf of the city the compensation to be made to the city by other parties using the company∗s facilities for distribution of transport gas. The company agrees to collect such sums for the city and to submit such payments in the manner provided. Nothing in this section allowing the transportation of gas owned by others shall relieve company from the responsibility of maintaining a franchise for the placement of its facilities in the right-of-way.

Section 3. Term. (a) The term of this franchise shall be 10 years from the effective date of this ordinance except as otherwise provided in this section. (b) Upon written request of either the city or the company, the franchise may be reviewed after five years from the effective date of this ordinance and either the city or the company may propose amendments to any provision of this franchise by giving 30 days written notice to the other of the amendment(s) desired. The city and the company shall negotiate in good faith in an effort to agree upon mutually satisfactory amendment(s). (c) Upon written request of either the city or the company, the franchise shall be reopened and renegotiated at any time upon any of the following events: (1) Change in federal, state, or local law, regulation, or order which materially affects any rights or obligations of either the city or company, including but not limited to the scope of the grant to the company or the compensation to be received by the city. (2) Change in the structure or operation of the natural gas industry which materially affects any rights or obligations of either the city or company, including but not limited to the scope of the grant to the

company or the compensation to be received by the city. (3) Any other material and unintended change or shift in the economic benefit the city or the company relied upon and anticipated upon entering into this franchise. (d) The compensation provision of this franchise shall be reopened and renegotiated if energy consumers within the city have access to alternative natural gas suppliers or other suppliers of energy through pipelines who use the right-of-way and do not pay a franchise fee or other payment substantially equivalent to this franchise, which results in a material and unfair disadvantage to the company. The use of right-of- way provisions of this franchise shall be reopened and renegotiated if energy consumers within the city have access to alternative natural gas suppliers or other suppliers of energy through pipelines who use the right-of-way and do not have requirements on the use of right-of-way substantially equivalent to the requirements of this franchise, which results in a material and unfair disadvantage to the company. Upon any such event, the city shall have up to 180 days after written request of the company in which to restore competitive neutrality, provided that any adjustment in compensation resulting from renegotiations under subsection (d) shall be effective no later than 90 days after such notice. (e) Failure of the city and company to successfully renegotiate the materially affected provisions of the franchise under subsections (b), (c) or (d) shall give rise to dispute resolution as follows: At the expiration of 180 days from the date of the written request (or sooner if requested by both the city and the company) the city and the company shall each select a representative who shall jointly select a third representative. The three representatives shall hear the positions of the city and company and shall determine the matters in disagreement by majority vote. Such decision shall be presented to city and the company as the renegotiated language under subsections (b), (c) or (d). Rejection of the dispute resolution by either the city or the company shall give rise to the remedies provided by Section 9, or at the option of the parties, the franchise shall remain in effect according to its then existing terms. (f) Amendments under this action, if any, shall be made by ordinance as prescribed by statute. The franchise shall remain in effect according to its terms pending completion of any review or renegotiation provided by subsections (b), (c), (d), or (f).

Section 4. Compensation to the City. In consideration of and as compensation for the franchise hereby granted to company by the city, the company shall make an accounting to the city of all natural gas that has been distributed on a monthly basis (less gas distributed to the city for city use). The company shall pay the City: (a) A sum equal to three percent of the gross receipts received from the distribution of natural gas. (b) A sum equal to the volumetric rate multiplied by the number of MCF of transport gas. (c) The sums in (a) and (b) above shall be adjusted for uncollectible receivables and for uncollectible receivables which are later collected. (d) The city may request that the volumetric rate be adjusted once annually by giving the company written notice between the anniversary date of the adoption of this franchise ordinance and 60 days thereafter. The adjusted volumetric rate shall not be effective unless and until it is consented to by the company, which consent shall not be unreasonably withheld. The company, after receiving a notice concerning adjustment of the volumetric rate, shall notify the city in writing concerning whether it consents or does not consent within 60 days of the receipt of such notice. If the company does not consent, the reason for not consenting shall be set out in such written response. The company∗s failure to

respond within such time period shall constitute consent by the company. The adjusted volumetric rate shall be effective commencing the first month following the date consent to the adjustment is given by the company. (e) Any consideration hereunder shall be reported and paid to grantor by grantee on a monthly basis. Such payment shall be made not more than 30 days following the close of the period for which payment is due. Initial and final payments shall be prorated for the portions of the periods at the beginning and end of the term of this ordinance. (f) In the event the accounting rendered to the city by the company is found to be incorrect, then payment shall be made on the corrected amount, it being agreed that the city may accept any amount offered by the company, but the acceptance thereof by the city shall not be deemed a settlement of such item if the amount is in dispute or later found to be incorrect. The company agrees that all of its books, records, and documents and all of its contracts and agreements as may be reasonably necessary for an effective compliance review of this ordinance shall at all reasonable times be opened to the inspection and examination of the officers of the city and its duly authorized agents, auditor, and employees for the purpose of verifying said accounting, or for any other lawful purpose. Notwithstanding the obligation herein, the company shall have the right to request the reasonable protection of proprietary information and to provide redacted documents or require the city or its agents to enter into such agreements pertaining to confidentiality as may reasonably protect the proprietary information of the company but which do not unreasonably frustrate the purposes of this subsection. (g) For each and every month, or any part thereof, that the compensation provided for by this franchise remains unpaid after the same becomes due and payable to the city, there shall be added to such payment, as a late charge, a sum equivalent to the statutory rate for interest on the unpaid amount. Such late charge shall be applicable to sums that are delinquent as well as any sums due the city as the result of an audit or review of the company∗s records.

Section 5. Payments and Charges. The payments and compensation herein provided shall be in lieu of all other licenses, charges, and fees, except that the usual general property taxes and special ad valorem property taxes, sales and excise taxes, and any permit fees and charges for pavement cuts or other permit fees and charges based on restoring premises to their same condition, or charges made for privileges which are not in any way connected with the natural gas business, as such, will be imposed on the company and are not covered by the payments herein. From and after the date hereof, however, the permit fees required of the company by an ordinance that may hereafter be adopted for a permit to excavate in any unpaved street, alley, or other public place is deemed a part of the compensation paid in Section 4 and shall not be separately assessed or collected by the city; in no event, however, shall this provision be interpreted to waive the requirement of notice to the city and the procedural requirements of such ordinance.

Section 6. Use of Right of Way. In the use of right-of-way under this franchise, the company shall be subject to all rules, regulations, policies, resolutions and ordinances now or hereafter adopted or promulgated by the city in the reasonable exercise of its police power. In addition, the company shall be subject to all rules, regulations, policies, resolutions, and ordinances now or hereafter adopted or promulgated by the city relating to permits, sidewalk and pavement cuts, utility

location, construction coordination, screening, and other requirements on the use of the right-of-way; provided, however, that nothing contained herein shall constitute a waiver of or be construed as waiving the right of the company to oppose, challenge, or seek judicial review of, in such manner as is now or may hereafter be provided by law, any such rules, regulation, policy, resolution, and ordinance proposed, adopted, or promulgated by the city. Further, the company shall comply with the following: (a) The company∗s use of right-of-way shall in all matters be subordinate to the city∗s use of right-of-way for any public purpose. The company shall coordinate the installation of its facilities in right-of-way in a manner which minimizes adverse impact on public improvements, as reasonably determined by the city. Where installation is not otherwise regulated, the facilities shall be placed with adequate clearance from such public improvements so as not to conflict with such public improvement. (b) All earth, materials, sidewalks, paving, crossings, utilities, public improvements, or improvements of any kind located within the right-of-way damaged or removed by the company in its activities under this franchise shall be fully repaired or replaced promptly by the company at its sole expense and to the reasonable satisfaction of the city in accordance with the ordinances and regulations of the city pertaining thereto. (c) The company shall notify the city not less than three working days in advance (such notice to be adequate for timely notice on the governing body agenda under city procedures) of any construction, reconstruction, repair, or relocation of facilities which would require any street closure which reduces traffic flow to less than two lanes of moving traffic. Except in the event of an emergency, as reasonably determined by the company, no such closure shall take place without prior authorization from the city. In addition, all work performed in the traveled way or which in any way impacts vehicular or pedestrian traffic shall be properly signed, barricaded, and otherwise protected. Such signing shall be in conformance with the latest edition of the Federal Highway Administrations Standards and Guidelines for Work Zone Traffic Control, unless otherwise agreed to by the city. (d) The company shall cooperate promptly and fully with the city and take all reasonable measures necessary to provide accurate and complete information regarding the nature and horizontal and vertical location of its facilities located within right-of-way when requested by the city or its authorized agents for a public project. Such location and identification shall be at the sole expense of the company without expense to the city, its employees, agents, or authorized contractors. The company shall designate and maintain an agent, familiar with the facilities, who is responsible for timely satisfaction of the information needs of the city and other users of the right-of-way. The company shall coordinate with the city on the design and placement of facilities in the right-of-way during and for the design of public improvements. At the request of the company, the city may include design for facilities in the design of public projects. (e) Relocation of Company Facilities. If the city elects to change the grade of or otherwise alter any street, alley, avenue, bridge, public right-of-way or public place for a public purpose, the company, upon reasonable notice from the city, shall remove and relocate its facilities or equipment situated in the public rights-of-way, it such removal is necessary to prevent interference and not merely for the convenience of the city, at the cost and expense of the company. If the city orders or requests the company to relocate its facilities or equipment primarily for non-public purposes or the primary benefit of a commercial or private project, or as a result of the initial request of a commercial or private developer or other non-public entity, and such removal is necessary to prevent interference and not

merely for the convenience of the city or other right-of-way user, the company shall receive reimbursement for the cost of such relocation as a precondition to relocating its facilities or equipment. The city shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the company unreasonable additional expense in exercising its authority under this section. The city shall also provide a reasonable alternative location for the company's facilities. (f) It shall be the responsibility of the company to take adequate measures to protect and defend its facilities in the right-of-way from harm or damage. If the company fails to accurately locate facilities when requested, it has no claim for costs or damages against the city and its authorized contractors except to the extent the city and its authorized contractors are responsible for the harm or damage by their negligence or intentional conduct. Company shall be responsible to the city and its agents, representatives, and authorized contractors for all damages including, but not limited to, delay damages, repair costs, down time, construction delays, penalties or other expenses of any kind arising out of the failure of the company to perform any of its obligations under this agreement except to the extent another party is responsible for the harm or damage by its negligence or intentionally caused harm, provided, that if the responsibility of the city and its agents, representatives, and authorized contractors does not arise as a contractual obligation, the company shall have the right at its option to step in and defend such claim in its own right. The above general provisions notwithstanding, the city and its authorized contractors shall take reasonable precautionary measures including calling for utility location through Kansas One Call and exercising due caution when working near company facilities. (g) All technical standards governing construction, reconstruction, installation, operation, testing, use, maintenance, and dismantling of the facilities in the right-of-way shall be in accordance with applicable present and future federal, state, and city law and regulation, including but not limited to the most recent standards of the Kansas Corporation Commission and Department of Transportation, or such substantive equivalents as may hereafter be adopted or promulgated. It is understood that the standards established in this paragraph are minimum standards and the requirement established or referenced in this franchise may be additional to or stricter than such minimum standards. (h) The city encourages the conservation of right-of-way by the sharing of space by all utilities. Notwithstanding provision of this franchise prohibiting third party use, to the extent required by federal or state law, the company will permit any other franchised entity by appropriate contract or agreement negotiated by the parties to use any and all facilities constructed or erected by the company.

Section 7. Indemnity and Hold Harmless. The company shall hold and save the city, its officers, employees, agents, and authorized contractors, harmless from and against all claims, demands, expense, liability, and costs including attorney fees, to the extent occasioned in any manner by the company∗s occupancy of right-of-way, except to the extent that such were caused by the negligence or intentional conduct of the city, its officers, employees, agents, or authorized contractors. In the event a claim shall be made or an action shall be instituted against the city growing out of such occupancy of the right-of-way by facilities of the company, then upon notice by the city to the company, the company will assume responsibility for the defense of such actions at the cost of the company, subject to the option of the city to appear and defend, at its own cost, any such

case; provided, that the company shall have no duty to defend any such action to the extent that such action has resulted from the negligence or intentional conduct of the city, its officers, employees, agents, or authorized contractors.

Section 8. Right to Assign. This franchise shall be assignable only in accordance with the laws of the State of Kansas, as the same may exist at the time when any assignment is made.

Section 9. Termination and Forfeiture of Franchise. In case of failure on the part of the grantee, its successors and assigns, to comply with any of the provisions of this ordinance, or if the grantee, its successors and assigns, should do or cause to be done any act or thing prohibited by or in violation of the terms of this ordinance, the grantee, its successors and assigns, shall forfeit all rights and privileges granted by this ordinance and all rights hereunder shall cease, terminate and become null and void, provided that said forfeiture shall not take effect until the grantor shall carry out the following proceedings. Before grantor proceeds to forfeit said franchise, as in this section prescribed, it shall first serve a written notice upon the manager of said grantee, and upon the trustee or trustees in any deed of trust securing bonds of said grantee of records in Sedgwick County, Kansas, or the office of the Secretary of the State of Kansas, by mailing notice to such trustee or trustees to the address designated in such trust deed, setting forth in detail in such notice the neglect or failure complained of, and said grantee shall have ninety days thereafter in which to comply with the conditions of this franchise. If at the end of such 90 day period the grantor deems that the conditions of such franchise have not been complied with by the grantee and that such franchise is subject to cancellation by reason thereof, the grantor, in order to terminate such franchise, shall enact an ordinance setting out the grounds upon which said franchise or agreement is to be canceled or terminated. If within 30 days after the effective date of said ordinance the grantee shall not have instituted an action, either in District Court of Sedgwick County, Kansas, or some other court of competent jurisdiction to determine whether or not the grantee has violated the terms of this franchise and that the franchise is subject to cancellation by reason thereof, such franchise shall be canceled and terminated at the end of such 30 day period. If within such 30 day period the grantee does institute an action, as above provided, to determine whether or not grantee has violated the terms of this franchise and that the franchise is subject to cancellation by reason thereof and prosecutes such action to final judgment with due diligence, then, in that event, in case the court finds that the franchise is subject to cancellation by reason of the violation of its terms, this franchise shall terminate 30 days after such final judgment is rendered. Provided, however, that the failure of said grantee to comply with any of the provisions of this ordinance or the doing or causing to be done by said grantee of anything prohibited by or in violation of the terms of this ordinance shall not be grounds for the forfeiture thereof when such act or omission on the part of the said grantee is due to any cause or delay beyond the control of said grantee, its successors and assigns, or bona fide legal proceedings.

Section 10. Rights and Duties of Grantee Upon Expiration of Franchise. Upon expiration of this franchise, whether by lapse of time, by agreement between grantee and grantor, or by forfeiture thereof, the grantee shall have the rights to remove any and all of its mains and pipes, laterals, appurtenances, and equipment

used in its said business within a reasonable time after such expiration, but in such event, it shall be the duty of the grantee, immediately upon such removal, to restore the streets, avenues, alleys, parks and other public ways and grounds from which said pipes, laterals and other equipment are removed to as good condition as the same were before said removal was effected.

Section 11. Acceptance of Terms by Grantee. Within 60 days after the final passage and approval of this ordinance, grantee shall file with the city clerk of the city its acceptance in writing of the provisions, terms and conditions of this ordinance, which acceptance shall be duly acknowledged before some officer authorized by law to administer oaths; and when so accepted the ordinance and acceptance shall constitute a contract between grantor and grantee subject to the provisions of the laws of the state of Kansas.

Section 12. Conditions of Franchise. This contract, franchise, grant and privilege is granted and accepted under and subject to all applicable laws and under and subject to all of the orders, rules, and regulations now or hereafter adopted by governmental bodies now or hereafter having jurisdiction, and each and every provision hereof shall be subject to acts of God, fires, strikes, riots, floods, war and other causes beyond grantee∗s control. This franchise shall not be exclusive.

Section 13. Invalidity of Ordinance. If any clause, sentence, or section of this ordinance shall be held to be invalid, it shall not affect the remaining provisions of this ordinance.

Section 14. Effective Date of Ordinance. This ordinance shall take effect and be in force from and after its passage and publication as required by law.

Section 15. Franchise Act. All contracts, grants, rights, privileges or franchises granted to grantee in this ordinance for the use of the streets and alleys of the city shall be subject to and governed by the provisions of the Franchise Act (K.S.A. 12-2001 et seq.) amendments thereto.

Section 16. Repeal of Conflicting Ordinances. Ordinance No. 281, which was heretofore granted to this grantee, and all other such ordinances and resolutions or parts thereof inconsistent or in conflict with the terms hereof, shall be canceled, annulled, repealed, and set aside, provided further, that this ordinance shall not take effect or be in force until it shall have been read in full at three meetings of the governing body of the city, nor until and immediately after its final passage it shall be published in the official city paper once each week for two consecutive weeks, and such ordinance shall not take effect or be in force until and after the expiration of 60 days from the date of its final passage nor it pending the final passage and taking effect of said ordinance, an election shall be called as provided by law, then said ordinance shall not take effect or become in force until the same shall have been duly approved as by law provided.

NOTICES

Any notices required to be given hereunder shall be sent to the following:

If to Grantee:
Vice President
Community Services
UtiliCorp United Inc.
20 West 9th Street
Kansas City, Missouri 64105

If to Grantor:
City Clerk
Maize, Kansas 67101

ORDINANCE NO. 575

AN ORDINANCE GRANTING TO SEDGWICK COUNTY ELECTRIC COOPERATIVE ASSOCIATION, INC., A KANSAS CORPORATION, ITS SUCCESSORS AND ASSIGNS, AN ELECTRIC ENERGY FRANCHISE, PRESCRIBING THE TERMS AND CONDITIONS THEREOF AND RELATING THERETO.

Section 1. Definitions. For the purpose of this franchise ordinance the following terms, phrases, words and their derivations shall have the meaning given herein below:

(a) KCC is the Kansas Corporation Commission.

(b) Sedgwick County Coop is Sedgwick County Electric Cooperative Association, Inc., a Kansas Corporation.

(c) City is the City of Maize, Kansas, a municipal corporation operating under the laws of the State of Kansas.

(d) Person is any person, firm, partnership, association, corporation, company or organization of any kind.

(e) Electrical Energy Distribution System or EEDS shall mean all of the lines, poles, meters, transformers, substations, street lights, control systems, and any other physical or operational element used and/or owned by Sedgwick County Coop for the purpose of providing electrical energy to residential, business, industrial or any other consumer within the boundaries of the city.

(f) Gross Receipts shall mean gross cash receipts derived from the sale or distribution of electrical energy within the corporate boundaries of the city through Sedgwick County Coop's EEDS. Gross cash receipts shall exclude revenue from delayed payment charges, connection fees, disconnection fees, reconnection fees, collection fees, returned check charges and other revenues not related to the sale of electrical energy.

(g) Rights-of-Way shall mean the streets, alleys, rights-of-way and public easements, including easements dedicated in plats of the city and that are within the service area assigned to the Sedgwick County Electric Cooperative by the KCC.

When not inconsistent with the context, words used in the present tense include the future; words in the plural number include the singular number and words in the singular number include the plural number. The word shall is always mandatory and not merely directory.

Section 2. Grant of Non-Exclusive Franchise to Sedgwick County Coop. Sedgwick County Coop is hereby granted the non-exclusive right to construct, reconstruct, operate and maintain an electrical energy distribution system, through, along, under, and over rights-of-way. This franchise acknowledges the right of Sedgwick County Coop to erect within rights-of-way, an electrical energy distribution system for its own exclusive use and its right to make such contracts as it deems necessary and proper for its operations under this franchise, including its right to negotiate with those public utilities and service corporations already holding franchises from the city for permission to use existing utility poles and facilities for its electrical energy distribution system erected by Sedgwick County Coop in the city's rights-of-way shall be so located as to cause minimum interference with the proper use of rights-of-way, and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin any of the rights-of-way. Upon the city providing necessary road rights-of-way, Sedgwick County Coop agrees that it will, at its expense or in accordance with policies established by the KCC as they apply to Sedgwick County Rural Electric Cooperative, remove and/or relocate poles, wires, and other fixtures which are or may be located on, over, or under public road right-of-way when such removal or relocation is required to serve the transportation needs of the public. Other relocations over public lands will be made and the cost allocated in accordance with policies established by the KCC as they apply to Sedgwick County Electric Cooperative and/or the city. The city, subject to conditions set forth in Section 10 herein, reserves the right of reasonable regulation of the erection, construction, installation, operation and maintenance of the electrical energy distribution system and to reasonably designate where the electrical energy distribution systems are to be placed within the rights-of-way.

Section 3. Construction Standards. All work performed in the construction, reconstruction, operation, maintenance and repair of the EEDS shall be performed in a safe, thorough and reliable manner using proper procedures and materials of good, durable quality, all according to standard of the industry. All construction, including installation, shall conform to all applicable federal and state laws and regulations, city ordinances and regulations, and the National Electric Safety Code. Any property damaged or destroyed by Sedgwick County Coop shall be repaired or replaced by Sedgwick County Coop and reasonably restored to an equal or better condition than existed prior to the damage. Any pavements, sidewalks, or curbing taken up or any and all excavations made by Sedgwick County Coop shall be done in such manner as to give the least inconvenience to the inhabitants of the city and shall be replaced and repaired at Sedgwick County Coop's expense to an equal or better condition that existed prior to the damage, such work to be accomplished in as expeditious and safe a manner as possible. Sedgwick County Coop shall not place EEDS facilities where the same will interfere with any gas, cable or telephone fixtures, water hydrants or mains nor where they might interfere with safe and convenient travel on, over and across rights-of-way.

Section 4. Trimming of Trees. Permission is hereby granted by the city to Sedgwick County Coop to trim trees that are upon or that overhang rights-of-way and that interfere with Sedgwick County Coop's ability to provide electrical energy to city inhabitants, subject to the city public works director's review and approval of

Sedgwick County Coop's plans and details for such trimming. In preparing plans and details in trimming of trees, care shall be taken by Sedgwick County Coop to protect the health and aesthetic value of such trees, and when required by the public works director, such trimming shall be done under the supervision of the city. No trimming shall occur without at least 24 hours advance notice (weekends and city holidays shall not be included in calculating the 24 hour notice) being given to the city public works director and to any adjacent landowner, provided, however, Sedgwick County Coop shall not be required to provide such notice or obtain prior approval to trim if the trimming is done under emergency conditions that require immediate trimming for safety reason or to maintain service to Sedgwick County Coop customers.

Section 5. Indemnification and Insurance. Sedgwick County Coop shall at all times, defend, indemnify and hold harmless the city and the individual members of the city's governing body, its officers, employees and agents from any and all claims, demands, actions, suits, damages, costs, charges or expenses resulting from the construction, reconstruction, maintenance or operation of its EEDS in the city. Upon timely written notice from the city, Sedgwick County shall defend the city in any action or proceeding brought herein, except to the extent that such was caused by negligent or intentional conduct of the city, its officers, employees or agents. Sedgwick County Coop acknowledges that it carries insurance to cover exposures under this indemnification.

Section 6. Franchise Fee. That in consideration of the franchise and privilege hereby granted and in lieu of all occupation and license taxes, Sedgwick County Coop each month shall remit five percent of its gross monthly receipts, as defined in Section 1(F) hereof, derived from its operations in the city. The aforesaid payments shall be made to the city, without demand, no later than the last day of the month following the month in which the receipts upon which the franchise fee is based are received.

Section 7. Service Procedures. Sedgwick County Coop shall provide timely service for the purposes of responding to service outages, emergencies and service requests as well as for providing maintenance of the system.

Section 8. Abandonment of Service. If this franchise is abandoned for any reason and Sedgwick County Coop has failed to remove any of its property from rights-of-way within one year, the city may take title to the same, and may use, remove or dispose of the same unless a subsequent arrangement for removal is made between Sedgwick County Coop and the city.

Section 9. Books and Records. The company shall provide the city or city audit representatives with reasonable access to company records and information documenting the total gross receipts from sales within the city. In addition, the following records and reports shall be provided to the city upon request. (a) A copy of rules, regulations, terms and conditions adopted by Sedgwick County Coop that affect the city or Sedgwick County Coop's customers in the city. (b) A copy of Sedgwick County Coop's current schedule of rates and service charges applicable to the customers in the city.

Section 10. Reservation of Rights. The city, as to Sedgwick County Coop's use of rights-of-way under this franchise ordinance, reserves the right to adopt, in addition to the provisions contained herein and in existing applicable ordinances, such additional ordinances and/or regulations as it shall find necessary in the exercise of its police power, provided, however, such ordinances and/or regulations shall be reasonable and not materially in conflict with the rights and privileges granted in this ordinance or with any applicable provisions of the federal or state law or regulation.

Section 11. Term. This agreement shall be for a period of 10 years from and after the effective date as specified below. Upon written request of either the city or Sedgwick County Coop, the franchise shall be reopened and renegotiated at any time upon any of the following events: (a) Change in federal, state or local laws, regulations or order, which materially affects any right or obligation of either the city or Sedgwick County Coop, including but not limited to the scope of the grant to Sedgwick County Coop or the compensation to be received by the city. (b) The electrical consumers of the city have access to alternative electric suppliers that use the right-of-way to distribute such electricity and do not pay a franchise or other payment substantially equivalent to this franchise, which results in a material unfair advantage to Sedgwick County Coop and/or the city. Upon 30 days' written notice to the other party, notifying that the franchise shall be reopened and renegotiated pursuant to the occurrence of one or more of the above events, the parties agree that, upon receipt of such notice, they will meet and negotiate in good faith on amendments that incorporate any necessary change to this agreement. If the parties are unable to reach an agreement within 90 days after the receipt of notice by the receiving party, the city, at its option, has the right to terminate the franchise by action of the governing body by repealing this ordinance.

Section 12. Governing Law. This franchise is granted pursuant to the provisions of K.S.A. 12-2001 *et seq.* And shall be governed by the laws of the State of Kansas.

Section 13. Separability. If any section, subsection, sentence, clause, phrase, or portion of this franchise agreements for any reason held invalid by any court or agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of the franchise agreement.

Section 14. Right to Assign. This franchise shall be assignable only in accordance with the laws of the State of Kansas, and the applicable rules and regulations of the KCC as they apply to Sedgwick County Electric Cooperative, as the same may exist at the time when any assignment is made.

Section 15. Acceptance of Terms By Grantee. Within 60 days after the final passage and approval of this ordinance, Sedgwick County Coop shall file with the city clerk of the city, its acceptance in writing of the provisions, terms and conditions of this ordinance, which acceptance shall be duly acknowledged before some officer authorized by law to administer oaths; and when so accepted, this

ordinance in acceptance shall constitute a contract between grantor and grantee subject to the provisions of the laws of the State of Kansas.

Section 16. Condition of Franchise. This franchise is granted and accepted under and subject to all applicable laws and to all orders, rules and regulations now and hereafter adopted by governmental bodies now or hereafter having jurisdiction, including ordinances and regulations hereafter adopted by the city in conformance with Section 10 herein. Each and every provision hereof shall be subject to acts of God, fires, strikes, riots, floods, and other causes beyond Sedgwick County Coop's control. This franchise shall not be exclusive.

Section 17. Effective Date. This ordinance shall take effect and be in force after 60 days after the date of this final passage and its publication during said period as provided by law.

Section 18. Successors and Assigns. All provisions of this ordinance shall be binding upon the city and Sedgwick County Coop and upon their successors, lessees and assigns. The rights, benefits and privileges as well as the obligations, duties and liability created by this ordinance shall pass to such successors, lessees and assigns and be binding upon them.

Section 19. Notice. Any notice required to be given hereunder shall be in writing by hand delivery, certified or registered letter sent to the following if to grantee: Alan Henning, General Manager, Sedgwick County Electric Cooperative Association, Inc., 125 North Main, P.O. Box 220, Cheney, Kansas 67025. If to grantor: City Clerk, Maize City Hall, 123 Khedive, Maize, Kansas 67101.
(10-22-01)

ORDINANCE NO. 608

A NON-EXCLUSIVE CONTRACT FRANCHISE ORDINANCE GRANTED TO SBC (SOUTHWESTERN BELL COMPANY, A TELECOMMUNICATIONS LOCAL EXCHANGE SERVICE PROVIDER PROVIDING LOCAL EXCHANGE SERVICE WITHIN THE CITY OF MAIZE, KANSAS.

Section 1. Pursuant to K.S.A. 2002 Supp. 12-2001, a contract franchise ordinance is hereby granted to Southwestern Bell Company (SBC), a Telecommunications Local Exchange Service Provider providing Local Exchange Service within the City of Maize, Kansas (the "City"), subject to the provisions contained hereafter. The initial term of this Franchise Ordinance ("Ordinance") shall be for a period beginning April 1, 2003, and ending April 1, 2008. Compensation to be paid to the City shall be established pursuant to Section 3 of this Ordinance.

Section 2. Definitions. For the purpose of this Ordinance, the following words and phrases and their derivations shall have the following meanings:
(a) "Access Line" shall mean and be limited to retail billed and collected residential lines, business lines; ISDN lines; PBX trunks and simulated exchange Access Lines provided by a central office based switching arrangement where all stations serviced by such simulated exchange Access Lines are used by a single customer of the Provider of such arrangement. Access Line may not be construed

to include interoffice transport or other transmission media that do not terminate at an end user customer's premises, or to permit duplicate or multiple assessment of Access Line rates on the provision of a single service or on the multiple communications paths derived from a billed and collected Access Line. Access Lines shall not include the following: Wireless Telecommunications Services, the sale or lease of unbundled loop facilities, special access services, lines providing only data services without voice services process by a Telecommunications Local Exchange Service Provider or private line service arrangements.

(b) "Access Line Count" means the number of Access Lines serving consumers within the corporate boundaries of the City on the last day of each month.

(c) "Access Line Fee" means a fee determined by a City, up to a maximum as set out in K.S.A. 2002 Supp. 12-2001 and amendments thereto, to be used by a Telecommunications Local Exchange Service Provider in calculating the amount of Access Line Remittance.

(d) "Access Line Remittance" means the amount to be paid by a Telecommunications Local Exchange Service Provider to a City, the total of which is calculated by multiplying the Access Line Fee, as determined in the City, by the number of Access Lines served by that Telecommunications Local Exchange Service Provider within that City for each month in that calendar quarter.

(e) "Gross Receipts" means only those receipts collected from within the corporate boundaries of the City enacting the franchise and which are derived from the following: (A) Recurring Local Exchange Service for business and residence which includes basic exchange service, touch tone, optional calling features and measured local calls; (B) recurring local exchange Access Line services for pay phone lines provided by a Telecommunications Local Exchange Service Provider to all pay phone service Providers; (C) local directory assistance revenue; (D) line status verification/busy interrupt revenue; (E) local operator assistance revenue; and (F) nonrecurring Local Exchange Service revenue which shall include customer service for installation of lines, reconnection of service and charge for duplicate bills. All other revenues, including, but not limited to, revenues from extended area service, the sale or lease of unbundled network elements, nonregulated services, carrier and end user access, long distance, wireless Telecommunications Services, lines providing only data service without voice services processed by a Telecommunications Local Exchange Service Provider, private line service arrangements, internet, broadband and all other services not wholly local in nature are excluded from Gross Receipts. Gross Receipts shall be reduced by bad debt expenses. Uncollectible and late charges shall not be included within Gross Receipts. If a Telecommunications Local Exchange Service Provider offers additional services of a wholly local nature which if in existence on or before July 1, 2002, would have been included with the definition of Gross Receipts, such services shall be included from the date of the offering of such services in the City.

(f) "Local Exchange Service" means local switched Telecommunications Service within any Local Exchange Service area approved by the state corporation commission, regardless of the medium by which the local Telecommunications Services is provided. The term Local Exchange Service shall not include wireless communication services.

(g) "Provider" shall mean a local exchange carrier as defined in subsection (h) of K.S.A. 66-1,187, and amendments thereto, or a telecommunications carrier as defined in subsection (m) of K.S.A. 66-1,187, and amendments thereto.

(h) "Public Right-of-Way" means only the area of real property in which the City has a dedicated or acquired right-of-way interest in the real property. It shall include the area on, below or above the present and future streets, alleys, avenues, roads, highways, parkways or boulevards dedicated or acquired as right-of-way. The term does not include the airwaves above a right-of-way with regard to wireless telecommunications or other nonwire telecommunications or broadcast service, easements obtained by utilities or private easements in platted subdivisions or tracts.

(i) "Telecommunications Local Exchange Service Provider" means a local exchange carrier as defined in subsection (h) of K.S.A. 66-1,187, and amendments thereto, and a telecommunications carrier as defined in subsection (m) of K.S.A. 66-1,187, and amendments thereto, which does, or in good faith intends to, provide Local Exchange Service. The term Telecommunications Local Exchange Service Provider does not include an interexchange carrier that does not provide Local Exchange Service, competitive access Provider that does not provide Local Exchange Service or any wireless Telecommunications Local Exchange Service Provider.

(j) " Telecommunications Services" means providing the means of transmission between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

Section 3. Franchise Fee. Compensation made pursuant to this Ordinance shall be paid on a monthly basis without invoice or reminder from the City and paid within forty-five (45) days after the last day of the applicable month. For the first year of this Ordinance, said compensation shall be five percent (5%) of Gross Receipts. Thereafter, compensation shall continue to be five percent (5%) of Gross Receipts; unless the City notifies SBC prior to ninety (90) days before the end of the calendar year that it intends to increase or decrease the percentage of Gross Receipts or that it intends to switch to an Access Line Fee for the following calendar year. In the event the City elects compensation based on an Access Line Fee, nothing herein precludes the City from switching back to a percentage of Gross Receipts, provided the City notifies SBC prior to ninety (90) days before the end of the calendar year that it intends to elect to use a percentage of Gross Receipts for the following calendar year. Beginning January 1, 2004, any increased Access Line Fee or percentage Gross Receipts shall be made in compliance with the public notification procedures set forth in subsections (l) and (m) of K.S.A. 2002 Supp. 12-2001.

Section 4. Examination of Records. The City shall have the right to examine, upon written notice to the Telecommunications Local Exchange Service Provider, no more than once per calendar year, those records necessary to verify the correctness of the compensation paid pursuant to this Ordinance.

Section 5. SBC Responsibility. As a condition of this Ordinance, SBC is required to obtain and is responsible for any necessary permit, license, certification, grant, registration or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the Federal Communications Commission (FCC) or the Kansas Corporation Commission (KCC), subject to SBC's right to challenge in good faith such requirements as established by the

FCC, KCC or other City Ordinance. SBC shall also comply with all applicable laws, statutes and/or ordinances, subject to SBC's right to challenge in good faith such laws, statutes and/or ordinances.

Section 6. Cable Service Not Part of Franchise. This Ordinance does not provide SBC the right to provide cable service as a cable operator (as defined by 47 U.S.C. § 522(5)) within the City. Upon SBC's request for a franchise to provide cable service as a cable operator (as defined by 47 U.S.C. § 522(5)) within the City, the City agrees to timely negotiate such franchise in good faith with SBC. SBC agrees that this franchise does not permit it to operate an open video system without payment of fees permitted by 47 U.S.C. § 573(c)(2)(B) and without complying with FCC regulations promulgated pursuant to 47 U.S.C. § 573.

Section 7. Construction and Maintenance. If requested by City, in order to accomplish construction and maintenance activities directly related to improvements for the health, safety and welfare of the public, SBC shall remove its facilities from the public right-of-way or shall relocate or adjust its facilities within the public right-of-way at no cost to the City. Such relocation or adjustment shall be completed as soon as reasonably possible within the time set forth in any request by the City for such relocation or adjustment. Any damages suffered by the City or its contractors as a result of SBC's failure to timely relocate or adjust its facilities shall be borne by SBC.

Section 8. Public Right-of-Way Fees. The City may assess any of the following fees against SBC, for use and occupancy of the public right-of-way, provided that such fees reimburse the City for its reasonable, actual and verifiable costs of managing the City right-of-way, and are imposed on all other franchise holders in a nondiscriminatory and competitively neutral manner:
(1) A permit fee in connection with issuing each construction permit to set fixtures in the Public Right-of-Way within the City as provided in K.S.A. 17-1901, and amendments thereto, to compensate the City for issuing, processing and verifying the permit application. (a) An excavation fee for each street or pavement cut to recover the costs associated with construction and repair activity of SBC, their assigns, contractors and/or subcontractors with the exception of construction and repair activity required pursuant to subsection (1) of this section related to construction and maintenance activities directly related to improvements for the health, safety and welfare of the public; provided, however, imposition of such excavation fee must be based upon a regional specific or other appropriate study establishing the basis for such costs which takes into account the life of the City street prior to the construction or repair activity and the remaining life of the City street prior to the construction or repair activity and the remaining life of the City street. Such excavation fee is expressly limited to activity that results in an actual street or pavement cut; (b) Inspection fees to recover all reasonable costs associated with City inspection of the work of SBC in the right-of-way; (c) Repair and restoration costs associated with repairing and restoring the Public Right-of-Way because of damage caused by SBC, its assigns, contractors, and/or subcontractors in the right-of-way; and (d) A performance bond, in a form acceptable to the City, from a surety licensed to conduct surety business in the state of Kansas, insuring appropriate and timely performance in the construction and maintenance of facilities located in the Public Right-of-Way.

(2) The City may not assess any additional fees against Providers for use or occupancy of the Public Right-of-Way other than those specified in this subsection (2).
(3) The fees as identified in this section shall be set by a separate ordinance.

Section 9. Trimming of Trees. Permission is hereby granted by the City to SBC to trim trees that are upon or that overhang rights-of-way and that interfere with SBC's ability to provide service to City inhabitants, subject to the City Administrator's review and approval of SBC plans and details for such trimming. In preparing plans and details in trimming of trees, care shall be taken by SBC to protect the health and aesthetic value of such trees, and when required by City Administrator, such trimming shall be done under the supervision of the City. No trimming shall occur without at least twenty-four (24) hours advance notice (weekends and City holidays shall not be included in calculating the 24-hour notice) being given to the City Administrator and to any adjacent landowner; provided, however, SBC shall not be required to provide such notice or obtain prior approval to trim if the trimming is done under emergency conditions that require immediate trimming for safety reasons or to maintain service to SBC customers. In addition, the trimming of trees shall come in compliance with applicable laws, statutes and/or ordinances.

Section 10. Non-Exclusive Grant. Nothing herein contained shall be construed as giving SBC any exclusive privileges, nor shall it affect any prior or existing rights of SBC to maintain a telecommunications system within the City.

Section 11. Remittance of Rent on Resold Access Lines. SBC shall collect and remit compensation as described in Section 3 on those Access Lines that have been resold to another Telecommunications Local Exchange Service Provider.

Section 12. Notice. Any required or permitted notice under this Ordinance shall be in writing. Notice upon either party shall be delivered by first class United States mail or by personal delivery to: (1) SBC, Director – Municipal Affairs, 220 E 6th Street, Room 505, Topeka, KS 66603; (2) City of Maize, Kansas, ATTN: City Clerk, 123 Khedive, Maize, Kansas 67101.

Section 13. Indemnification. SBC shall indemnify and hold the City and its officers and employees harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees (including reasonable attorney fees and costs of defense), proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including personal or bodily injury (including death), property damage, or other harm for which recovery of damages is sought, to the extent that it is found by a court of competent jurisdiction to be caused by the negligence of the Provider, any agent, officer, director, representative, employee, affiliate or subcontractor of SBC, or their respective officers, agents, employees, directors or representatives, while installing, repairing or maintaining facilities in a Public Right-of-Way. The indemnity provided by this subsection does not apply to any liability resulting from the negligence of the City, its officers, employees, contractors or subcontractors. If SBC and the City are found jointly liable by a court of competent jurisdiction, liability shall be apportioned comparatively in accordance with the laws of the state without, however, waiving any governmental immunity available to the

City under state law and without waiving any defenses of the parties under state or federal law. This section is solely for the benefit of the City and SBC and does not create any grant of rights, contractual or otherwise, to any other person or entity.

Section 14. Failure to Enforce. The failure of either party to enforce and remedy any noncompliance of the terms and conditions of this Ordinance shall not constitute a waiver of rights nor a waiver of the other party's obligations as provided herein.

Section 15. Invalidity of Ordinance. If any clause, sentence or section of this Ordinance shall be held invalid, it shall not affect the remaining provisions of this Ordinance.

Section 16. Force Majeure. Each and every provision hereof shall be subject to acts of God, fires, strikes, riots, floods, war and other disasters beyond SBC's or the City's control.

Section 17. Governing Law. This Ordinance is made under and in conformity with the laws of the state of Kansas. No such contract franchise shall be effective until the ordinance granting the same has been adopted as provided by law.
(04-28-2003)

ORDINANCE NO. 612

A NON-EXCLUSIVE CONTRACT FRANCHISE ORDINANCE GRANTED TO SBC (SOUTHWESTERN BELL COMPANY), A TELECOMMUNICATIONS LOCAL EXCHANGE SERVICE PROVIDER PROVIDING LOCAL EXCHANGE SERVICE WITHIN THE CITY OF MAIZE, KANSAS.

Section 1. Pursuant to K.S.A. 2002 Supp. 12-2001, a contract franchise ordinance is hereby granted to Southwestern Bell Company (SBC), a Telecommunications Local Exchange Service Provider providing Local Exchange Service within the City of Maize, Kansas (the "City"), subject to the provisions contained hereafter. The initial term of this Franchise Ordinance ("Ordinance") shall be for a period beginning May 1, 2003, and ending May 1, 2008. Compensation to be paid to the City shall be established pursuant to Section 3 of this Ordinance.

Section 2. Definitions. For the purpose of this Ordinance, the following words and phrases and their derivations shall have the following meanings:
(a) "Access Line" shall mean and be limited to retail billed and collected residential lines, business lines; ISDN lines; PBX trunks and simulated exchange Access Lines provided by a central office based switching arrangement where all stations serviced by such simulated exchange Access Lines are used by a single customer of the Provider of such arrangement. Access Line may not be construed to include interoffice transport or other transmission media that do not terminate at an end user customer's premises, or to permit duplicate or multiple assessment of Access Line rates on the provision of a single service or on the multiple communications paths derived from a billed and collected Access Line. Access Lines shall not include the following: Wireless Telecommunications Services, the sale or lease of unbundled loop facilities, special access services, lines providing

only data services without voice services process by a Telecommunications Local Exchange Service Provider or private line service arrangements.

(b) "Access Line Count" means the number of Access Lines serving consumers within the corporate boundaries of the City on the last day of each month.

(c) "Access Line Fee" means a fee determined by a City, up to a maximum as set out in K.S.A. 2002 Supp. 12-2001 and amendments thereto, to be used by a Telecommunications Local Exchange Service Provider in calculating the amount of Access Line Remittance.

(d) "Access Line Remittance" means the amount to be paid by a Telecommunications Local Exchange Service Provider to a City, the total of which is calculated by multiplying the Access Line Fee, as determined in the City, by the number of Access Lines served by that Telecommunications Local Exchange Service Provider within that City for each month in that calendar quarter.

(e) "Gross Receipts" means only those receipts collected from within the corporate boundaries of the City enacting the franchise and which are derived from the following: (A) Recurring Local Exchange Service for business and residence which includes basic exchange service, touch tone, optional calling features and measured local calls; (B) recurring local exchange Access Line services for pay phone lines provided by a Telecommunications Local Exchange Service Provider to all pay phone service Providers; (C) local directory assistance revenue; (D) line status verification/busy interrupt revenue; (E) local operator assistance revenue; and (F) nonrecurring Local Exchange Service revenue which shall include customer service for installation of lines, reconnection of service and charge for duplicate bills. All other revenues, including, but not limited to, revenues from extended area service, the sale or lease of unbundled network elements, nonregulated services, carrier and end user access, long distance, wireless Telecommunications Services, lines providing only data service without voice services processed by a Telecommunications Local Exchange Service Provider, private line service arrangements, internet, broadband and all other services not wholly local in nature are excluded from Gross Receipts. Gross Receipts shall be reduced by bad debt expenses. Uncollectible and late charges shall not be included within Gross Receipts. If a Telecommunications Local Exchange Service Provider offers additional services of a wholly local nature which if in existence on or before July 1, 2002, would have been included with the definition of Gross Receipts, such services shall be included from the date of the offering of such services in the City.

(f) "Local Exchange Service" means local switched Telecommunications Service within any Local Exchange Service area approved by the state corporation commission, regardless of the medium by which the local Telecommunications Services is provided. The term Local Exchange Service shall not include wireless communication services.

(g) "Provider" shall mean a local exchange carrier as defined in subsection (h) of K.S.A. 66-1,187, and amendments thereto, or a telecommunications carrier as defined in subsection (m) of K.S.A. 66-1,187, and amendments thereto.

(h) "Public Right-of-Way" means only the area of real property in which the City has a dedicated or acquired right-of-way interest in the real property. It shall include the area on, below or above the present and future streets, alleys, avenues, roads, highways, parkways or boulevards dedicated or acquired as right-of-way. The term does not include the airwaves above a right-of-way with regard to wireless telecommunications or other nonwire telecommunications or broadcast

service, easements obtained by utilities or private easements in platted subdivisions or tracts.
(i) "Telecommunications Local Exchange Service Provider" means a local exchange carrier as defined in subsection (h) of K.S.A. 66-1,187, and amendments thereto, and a telecommunications carrier as defined in subsection (m) of K.S.A. 66-1,187, and amendments thereto, which does, or in good faith intends to, provide Local Exchange Service. The term Telecommunications Local Exchange Service Provider does not include an interexchange carrier that does not provide Local Exchange Service, competitive access Provider that does not provide Local Exchange Service or any wireless Telecommunications Local Exchange Service Provider.
(j) " Telecommunications Services" means providing the means of transmission between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

Section 3. Franchise Fee. Compensation made pursuant to this Ordinance shall be paid on a monthly basis without invoice or reminder from the City and paid within forty-five (45) days after the last day of the applicable month. For the first year of this Ordinance, said compensation shall be five percent (5%) of Gross Receipts. Thereafter, compensation shall continue to be five percent (5%) of Gross Receipts unless the City notifies SBC prior to ninety (90) days before the end of the calendar year that it intends to increase or decrease the percentage of Gross Receipts or that it intends to switch to an Access Line Fee for the following calendar year. In the event the City elects compensation based on an Access Line Fee, nothing herein precludes the City from switching back to a percentage of Gross Receipts, provided the City notifies SBC prior to ninety (90) days before the end of the calendar year that it intends to elect to use a percentage of Gross Receipts for the following calendar year. Beginning January 1, 2004, any increased Access Line Fee or percentage Gross Receipts shall be made in compliance with the public notification procedures set forth in subsections (l) and (m) of K.S.A. 2002 Supp. 12-2001.

Section 4. Examination of Records. The City shall have the right to examine, upon written notice to the Telecommunications Local Exchange Service Provider, no more than once per calendar year, those records necessary to verify the correctness of the compensation paid pursuant to this Ordinance.

Section 5. SBC Responsibility. As a condition of this Ordinance, SBC is required to obtain and is responsible for any necessary permit, license, certification, grant, registration or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the Federal Communications Commission (FCC) or the Kansas Corporation Commission (KCC), subject to SBC's right to challenge in good faith such requirements as established by the FCC, KCC or other City Ordinance. SBC shall also comply with all applicable laws, statutes and/or ordinances, subject to SBC's right to challenge in good faith such laws, statutes and/or ordinances.

Section 6. Cable Service Not Part of Franchise. This Ordinance does not provide SBC the right to provide cable service as a cable operator (as defined by 47

U.S.C. § 522(5)) within the City. Upon SBC's request for a franchise to provide cable service as a cable operator (as defined by 47 U.S.C. § 522(5)) within the City, the City agrees to timely negotiate such franchise in good faith with SBC. SBC agrees that this franchise does not permit it to operate an open video system without payment of fees permitted by 47 U.S.C. § 573(c)(2)(B) and without complying with FCC regulations promulgated pursuant to 47 U.S.C. § 573.

Section 7. Construction and Maintenance. If requested by the City, in order to accomplish the construction and maintenance activities directly related to improvements for the health, safety, and welfare of the public, SBC shall remove its facilities from the public right of way or shall relocate or adjust its facilities within the public right of way at no cost to the City. Such relocation or adjustment shall be completed as soon as reasonably possible within the time set forth in any request by the City for such relocation or adjustment. Any damages suffered by the City or its contractors as a result of SBC's failure to timely relocate or adjust its facilities shall be borne by SBC.

Section 8. Public Right-of-Way Fees. The City may assess any of the following fees against SBC, for use and occupancy of the Public Right-of-Way, provided that such fees reimburse the City for its reasonable, actual and verifiable costs of managing the City right-of-way, and are imposed on all other franchise holders in a nondiscriminatory and competitively neutral manner:

(1) A permit fee in connection with issuing each construction permit to set fixtures in the Public Right-of-Way within the City as provided in K.S.A. 17-1901 and amendments thereto, to compensate the City for issuing, processing and verifying the permit application.

(a) An excavation fee for each street or pavement cut to recover the costs associated with construction and repair activity of SBC, their assigns, contractors and/or subcontractors with the exception of construction and repair activity required pursuant to subsection (1) of this section related to construction and maintenance activities directly related to improvements for the health, safety and welfare of the public; provided, however, imposition of such excavation fee must be based upon a regional specific or other appropriate study establishing the basis for such costs which takes into account the life of the City street prior to the construction or repair activity and the remaining life of the City street. Such excavation fee is expressly limited to activity that results in actual street or pavement cut;

(b) Inspection fees to recover all reasonable costs associated with City inspection of the work of SBC in the right-of-way;

(c) Repair and restoration costs associated with repairing and restoring the Public Right-of-Way because of damage caused by SBC, its assigns, contractors, and/or subcontractors in the right-of-way; and

(d) A performance bond, in a form acceptable to the City, from a surety licensed to conduct surety business in the state of Kansas, insuring appropriate and timely performance in the construction and maintenance of facilities located in the Public Right-of-Way.

(2) The City may not assess any additional fees against Providers for use or occupancy of the Public Right-of-way other than those specified in this subsection (2).

(3) The fees as identified in this section shall be set by a separate ordinance.

Section 9. Trimming of Trees. Permission is hereby granted by the City to SBC to trim trees that are upon or that overhang rights-of-way and that interfere with SBC's ability to provide service to City inhabitants, subject to the City Administrator's review and approval of SBC plans and details for such trimming. In preparing plans and details in trimming of trees, care shall be taken by SBC to protect the health and aesthetic value of such trees, and when required by the City Administrator, such trimming shall be done under the supervision of the City. No trimming shall occur without at least twenty-four (24) hours advance notice (weekends and City holidays shall not be included in calculating the 24-hour notice) being given to the City Administrator and to any adjacent landowner, provided, however, SBC shall not be required to provide such notice or obtain prior approval to trim if the trimming is done under emergency conditions that require immediate trimming for safety reasons or to maintain service to SBC customers. In addition, the trimming of trees shall come in compliance with applicable laws, statutes and/or ordinances.

Section 10. Non-Exclusive Grant. Nothing herein contained shall be construed as giving SBC any exclusive privileges, nor shall it affect any prior or existing rights of SBC to maintain a telecommunications system within the City.

Section 11. Remittance of Rent on Resold Access Lines. SBC shall collect and remit compensation as described in Section 3 on those Access Lines that have been resold to another Telecommunications Local Exchange Service Provider.

Section 12. Notice. Any required or permitted notice under this Ordinance shall be in writing. Notice upon either party shall be delivered by first class United States mail or by personal delivery to: (1) SBC, Director-Municipal Affairs, 220 E 6th Street, Room 505, Topeka, Kansas 66603; (2) City of Maize, Kansas, Attn: City Clerk, 123 Khedive, Maize, Kansas 67101.

Section 13. Indemnification. SBC shall indemnify and hold the City and its officers and employees harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees (including reasonable attorney fees and costs of defense), proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including personal or bodily injury (including death), property damage, or other harm for which recovery of damages is sought, to the extent that it is found by a court of competent jurisdiction to be caused by the negligence of the Provider, any agent, officer, director, representative, employee, affiliate or subcontractor of SBC, or their respective officers, agents, employees, directors or representatives, while installing, repairing or maintaining facilities in a Public Right-of-Way.

The indemnity provided by this subsection does not apply to any liability resulting from the negligence of the City, its officers, employees, contractors or subcontractors. If SBC and the City are found jointly liable by a court of competent jurisdiction, liability shall be apportioned comparatively in accordance with the laws of the state without, however, waiving any governmental immunity available to the

City under state law and without waiving any defenses of the parties under state or federal law. This section is solely for the benefit of the City and SBC and does not create any grant of rights, contractual or otherwise, to any other person or entity.

Section 14. Failure to Enforce. The failure of either party to enforce and remedy any noncompliance of the terms and conditions of this Ordinance shall not constitute a waiver of rights nor a waiver of the other party's obligations as provided herein.

Section 15. Invalidity of Ordinance. If any clause, sentence or section of this Ordinance shall be held invalid, it shall not affect the remaining provisions of this Ordinance.

Section 16. Force Majeure. Each and every provision hereof shall be subject to acts of God, fires, strikes, riots, floods, war and other disasters beyond SBC's or the City's control.

Section 17. Governing Law. This Ordinance is made under and in conformity with the laws of the state of Kansas. No such contract franchise shall be effective until the ordinance granting the same has been adopted as provided by law.
(05-20-2003)

ORDINANCE NO. 615

AN ORDINANCE REPEALING ORDINANCE NO. 608 OF THE CITY OF MAIZE, KANSAS PERTAINING TO A FRANCHISE ORDINANCE THAT CONTAINS AN INCORRECT DATE.

Section 1. Repeal Ordinance No. 608. Ordinance No. 608 is hereby repealed.
(06-10-2003)

ORDINANCE NO. 797

AN ORDINANCE GRANTING BLACK HILLS/KANSAS GAS UTILITY, LLC, d/b/a BLACK HILLS ENERGY, A DELAWARE CORPORATION, ITS SUCCESSORS AND ASSIGNS, A NATURAL GAS FRANCHISE AND THE RIGHT TO CONSTRUCT, OPERATE, MAINTAIN AND EXTEND A NATURAL GAS DISTRIBUTION PLANT AND SYSTEM IN THE CITY OF MAIZE, KANSAS; PRESCRIBING THE TERMS OF SAID GRANT AND RELATING THERETO; AND REPEALING ORDINANCE NO. 543.

Section 1. Definitions. Unless otherwise specified, the following terms as used in this Ordinance shall mean as follows:

"City" and "Grantor" shall mean the City of Maize, Kansas.

"Company" and "Grantee" shall mean Black Hills/Kansas Gas Utility, LLC, d/b/a Black Hills Energy, a Delaware Corporation.

"Distributed" or "Distribution" shall mean all sales, distribution or transportation of gas not sold by the Company to any consumer or user within the City by the Company or by others through the Facilities of the Company in the Right-of-Way.

"Facilities" shall mean the natural gas mains, pipes, boxes, reducing and regulating stations, laterals, conduits and service extension, together with all necessary appurtenances thereto.

"Gross Receipts" shall mean any and all compensation and other consideration derived directly or indirectly by Company from any Distribution of natural gas to a consumer for any use, including domestic, commercial and industrial purposes, and including without limitation interruptible sales and single sales; and shall include revenues from any operation or use of any or all of the Facilities in the Right-of-Way by the Company or others including without limitation charges as provided in tariffs filed and approved, and shall also include all fees or rentals received by the Company for the lease or use of pipeline capacity within the corporate limits of the City, but such term shall not include revenue from certain miscellaneous charges and accounts as set forth in the Terms and Conditions of Gas Service on file and approved, including but not limited to connection and disconnection fees, reconnection fees, customer project contributions, returned check charges, temporary service changes, and delayed or late payment charges as such terms are used in tariffs filed and approved.

"MCF" shall mean a measurement of natural gas equal to one thousand (1,000) cubic feet; a cubic foot is the quantity of natural gas occupying one cubic foot of space at a pressure of 14.73 PSIA and a temperature of 60 degrees Fahrenheit. It is assumed for purposes of this Ordinance that one MCF equals one million (1,000,000) British Thermal Units (BTUs).

"Public Improvement" shall mean any existing or contemplated public facility, building or capital improvement project, including without limitation streets, alleys, sidewalks, sewer, water, drainage, right-of-way improvement and Public Projects.

"Public Project" shall mean any project planned or undertaken by the City or any governmental entity for construction, reconstruction, maintenance, or repair of public facilities or improvements or any other purpose of a public nature.

"Right-of-Way" shall mean present and future streets, alleys, rights-of-way and public easements, including easements dedicated in plats of the City for streets, and alleys.

"Streets" shall mean the entire width between property lines of land, property or an interest therein of every way publicly maintained where any part thereof is open to the use of the public for purposes of vehicular traffic, including street, avenue, boulevard, highway, expressway, alley or any other public way for vehicular travel by whatever name.

"Transport Gas" shall mean all natural gas transported by the Company or by others, but not sold by the Company, to any consumer or user within the City through the Facilities of the Company in the Right-of-Way.

"Volumetric Rate" shall mean seven cents ($0.07) per MCF of Transport Gas or such amounts as may hereafter be determined and set in accordance with the provisions of Section 4(D).

Section 2. Grant. (A) There is hereby granted to the Company the non-exclusive right, privilege and franchise to construct, maintain, extend and operate its Facilities in, through and along the Right-of-Way of the City for the purpose of supplying natural gas to the City and the inhabitants thereof for the full term of this franchise, subject to the terms and conditions herein set forth. Nothing in this Grant shall be construed to franchise or authorize the use of the Company's Facilities or the Right-of-Way by the Company or others for any purpose other than

the provision of natural gas. The Company will not allow a subsidiary, affiliate, or a third party to acquire rights to occupy the Right-of-Way under this franchise; provided, that nothing in this Section shall prevent the Company from allowing the use of its facilities by others when such use is compensated to the City under the provisions of this franchise. (B) The Company shall not enter into or continue any arrangement by which natural gas owned by any party other than the Company shall be transported, distributed or sold through any portion of the Company's Facilities in the Right-of-Way for delivery to any person within the City unless the City is compensated for such use by the Company, transporter, consumer or some other party. (C) By this Franchise, the Company is granted the authority to collect on behalf of the City the compensation to be made to the City by other parties using the Company's Facilities for Distribution of Transport Gas. The Company agrees to collect such sums for the City and to submit such payments in the manner provided. Nothing in this Section allowing the transportation of gas owned by others shall relieve the Company from the responsibility of maintaining a franchise for the placement of its Facilities in the Right-of-Way.

Section 3. Term. (A) The term of this franchise shall be ten (10) years from the effective date of this ordinance, except as otherwise provided in this Section. (B) Upon written request of either the City or the Company, the franchise may be reviewed after five (5) years from the effective date of this ordinance and either the City or the Company may propose amendments to any provision of this franchise by giving thirty (30) days written notice to the other of the amendment(s) desired. The City and the Company shall negotiate in good faith in an effort to agree upon mutually satisfactory amendment(s). (C) Upon written request of either the City or the Company, the franchise shall be reopened and renegotiated at any time upon any of the following events: (1) change in federal, state or local law, regulation or order which materially affects any rights or obligations of either the City or the Company, including but not limited to the scope of the grant to the Company or the compensation to be received by the City; (2) change in the structure or operation of the natural gas industry which materially affects any rights or obligations of either the City or the Company, including but not limited to the scope of the grant to the Company or the compensation to be received by the City; (3) any other material and unintended change or shift in the economic benefit the City or the Company relied upon and anticipated upon entering into this franchise. (D) The compensation provision of this franchise shall be reopened and renegotiated if energy consumers within the City have access to alternative natural gas suppliers or other suppliers of energy through the pipelines who use the Right-of-Way and do not pay a franchise fee or other payment substantially equivalent to this franchise, which results in a material and unfair disadvantage to the Company. The use of Right-of-Way provision of this franchise shall be reopened and renegotiated if energy consumers within the City have access to alternative natural gas suppliers or other suppliers of energy through pipelines who use the Right-of-Way and do not have the requirements on the use of the Right-of-Way substantially equivalent to the requirements of this franchise, which results in a material and unfair disadvantage to the Company. Upon any such event, the City shall have up to one hundred eighty (180) days after written request of the Company in which to restore competitive neutrality, provided that any adjustment in compensation resulting from renegotiations under this subsection (D) shall be effective no later than ninety (90) days after such notice. (E) Failure of the City

and the Company to successfully renegotiate the materially affected provisions of the franchise under subsections (B), (C) or (D) shall give rise to dispute resolution as follows: At the expiration of one hundred eighty (180) days from the date of the written request (or sooner if requested by both the City and the Company) the City and the Company shall each select a representative who shall jointly select a third representative. The three representatives shall hear the positions of the City and the Company and shall determine the matters in disagreement by majority vote. Such decision shall be presented to the City and the Company as the renegotiated language under subsection (B), (C) or (D). Rejection of the dispute resolution by either the City or the Company shall give rise to the remedies provided by Section 9, or at the option of the parties, the franchise shall remain in effect according to its then existing terms. (F) Amendments under this section, if any, shall be made by ordinance as prescribed by statute. The franchise shall remain in effect, according to its terms pending completion of any review or renegotiation provided by subsections (B), (C), (D) or (E).

Section 4. Compensation to the City. In consideration of and as compensation for the franchise hereby granted to the Company by the City, the Company shall make an accounting to the City of all natural gas that has been Distributed on a monthly basis (less gas distributed to the City for City use). The Company shall pay the City: (A) a sum equal to _____ percent (____%) of the Gross Receipts received from the Distribution of natural gas; (B) a sum equal to the Volumetric Rate multiplied by the number of MCF of Transport Gas; (C) the sums in (A) and (B) above shall be adjusted for uncollectible receivables and for uncollectible receivables which are later collected. (D) The City may request that the Volumetric Rate be adjusted once annually by giving the Company written notice between the anniversary date of the adoption of this Franchise Ordinance and sixty (60) days thereafter. The adjusted Volumetric Rate shall not be effective unless and until it is consented to by the Company, which consent shall not be unreasonably withheld. The Company, after receiving a notice concerning adjustment of the Volumetric Rate, shall notify the City in writing concerning whether it consents or does not consent within sixty (60) days of the receipt of such notice. If the Company does not consent, the reason for not consenting shall be set out in such written response. The Company's failure to respond within such time period shall constitute consent by the Company. The adjusted Volumetric Rate shall be effective commencing the first month following the date consent to the adjustment is given by the Company. (E) Any consideration hereunder shall be reported and paid to Grantor by Grantee on a monthly basis. Such payment shall be made not more than thirty (30) days following the close of the period for which payment is due. Initial and final payments shall be prorated for the portions of the periods at the beginning and the end of the term of this Franchise Ordinance. (F) In the event the accounting rendered to the City by the Company is found to be incorrect, then payment shall be made on the corrected amount, it being agreed that the City may accept any amount offered by the Company, but the acceptance thereof by the City shall not be deemed a settlement of such item if the amount is in dispute or later found to be incorrect. The Company agrees that all of its books, records and documents and all of its contracts and agreements as may be reasonably necessary for an effective compliance review of this ordinance shall at all reasonable times be opened to the inspection and examination of the officers of the City and its duly authorized agents, auditor and employees for the

purpose of verifying said accounting or for any other lawful purpose. Notwithstanding the obligation herein, the Company shall have the right to request the reasonable protection of proprietary information and to provide redacted documents or require the City or its agents to enter into such agreements pertaining to confidentiality as may reasonably protect the proprietary information of the Company but which do not unreasonably frustrate the purposes of this subsection. (G) For each and every month, or any part thereof, that the compensation provided for by this franchise remains unpaid after the same becomes due and payable to the City, there shall be added to such payment, as a late charge, a sum equivalent to the statutory rate for interest on the unpaid amount. Such late charge shall be applicable to sums that are delinquent as well as any sums due the City as the result of an audit or review of the Company's records.

Section 5. Paments and Charges. The payments and compensation herein provided shall be in lieu of all other licenses, charges and fees, except that the usual general property taxes and special ad valorem property taxes, sales and excise taxes and any permit fees and charges for pavement cuts or other permit fees and charges based on restoring premises to their same condition, or charges made for privileges which are not in any way connected with the natural gas business, as such, will be imposed on the Company and are not covered by the payments herein. From and after the date hereof, however, the permit fees required of the Company by an ordinance that may hereafter be adopted for a permit to excavate in any unpaved street, alley or other public place is deemed a part of the compensation paid in Section 4 and shall not be separately assessed or collected by the City; in no event, however, shall this provision be interpreted to waive the requirement of notice to the City and the procedural requirements of such ordinance.

Section 6. Use of Right-of-Way. In the use of Right-of-Way under this franchise, the Company shall be subject to all rules, regulations, policies, resolutions and ordinances now or hereafter adopted or promulgated by the City in the reasonable exercise of its police power. In addition, the Company shall be subject to all rules, regulations, policies, resolutions and ordinances now or hereafter adopted or promulgated by the City relating to permits, sidewalk and pavement cuts, utility location, construction coordination, screening and other requirements on the use of the Right-of-Way; provided, however, that nothing contained herein shall constitute a waiver of or be construed as waiving the right of the Company to oppose, challenge or seek judicial review of, in such manner as is now or may hereafter be provided by law, any such rules, regulation, policy, resolution and ordinance proposed, adopted or promulgated by the City. Further, the Company shall comply with the following: (A) The Company's use of Right-of-Way shall in all matters be subordinate to the City's use of Right-of-Way for any public purpose. The Company shall coordinate the installation of its Facilities in Right-of-Way in a manner which minimizes adverse impact on Public Improvements, as reasonably determined by the City. Where installation is not otherwise regulated, the Facilities shall be placed with adequate clearance from such Public Improvements so as not to conflict with such Public Improvement. (B) All earth, materials, sidewalks, paving, crossings, utilities, Public Improvements or improvements of any kind located within the Right-of-Way damaged or removed by the Company in its

activities under this franchise shall be fully repaired or replaced promptly by the Company at its sole expense and to the reasonable satisfaction of the City in accordance with the ordinances and regulations of the City pertaining thereto. (C) The Company shall notify the City not less than three (3) working days in advance (such notice to be adequate for timely notice on the governing body agenda under City procedures) of any construction, reconstruction, repair or relocation of Facilities which would require any street closure which reduces traffic flow to less than two (2) lanes of moving traffic. Except in the event of an emergency, as reasonably determined by the Company, no such closure shall take place without prior authorization from the City. In addition, all work performed in the traveled way or which in any way impacts vehicular or pedestrian traffic shall be properly signed, barricaded and otherwise protected. Such signing shall be in conformance with the latest edition of the Federal Highway Administration's Standards and Guidelines for Work Zone Traffic Control, unless otherwise agreed to by the City. (D) The Company shall cooperate promptly and fully with the City and take all reasonable measures necessary to provide accurate and complete information regarding the nature and horizontal and vertical location of its facilities located within the Right-of-Way when requested by the City or its authorized agents for a Public Project. Such location and identification shall be at the sole expense of the Company without expense to the City, its employees, agents or authorized contractors. The Company shall designate and maintain an agent, familiar with the Facilities, who is responsible for timely satisfaction of the information needs of the City and other users of the Right-of-Way. The Company shall coordinate with the City on the design and placement of Facilities in the Right-of-Way during and for the design of Public Improvements. At the request of the Company, the City may include design for Facilities in the design of Public Projects. (E) Relocation of Company Facilities. If the City elects to change the grade or otherwise alter any street, alley, avenue, bridge, public right-of-way or public place for a public purpose, the Company, upon reasonable notice from the City, shall remove and relocate its Facilities or equipment situated in the public Rights-of-Way, if such removal is necessary to prevent interference and not merely for the convenience of the City, at the cost and expense of the Company. If the City orders or requests the Company to relocate its facilities or equipment primarily for non-public purposes or the primary benefit of a commercial or private project, or as a result of the initial request of a commercial or private developer or other non-public entity, and such removal is necessary to prevent interference and not merely for the convenience of the City or other Right-of-Way user, the Company shall receive reimbursement for the cost of such relocation as a precondition to relocating its facilities or equipment. The City shall consider reasonable alternatives in designing its public works projects so as to not arbitrarily cause the Company unreasonable additional expense in exercising its authority under this Section. The City shall also provide a reasonable alternative location for the Company's Facilities. (F) It shall be the responsibility of the Company to take adequate measures to protect and defend its Facilities in the Right-of-Way from harm or damage. If the Company fails to accurately locate Facilities when requested, it has no claim for costs or damages against the City and its authorized contractors except to the extent the City and its authorized contractors are responsible for the harm or damage by their negligence or intentional conduct. The Company shall be responsible to the City and its agents, representatives and authorized contractors for all damages including but not limited to delay damages, repair costs, down

time, construction delays, penalties or other expenses of any kind arising out of the failure of the Company to perform any of its obligations under this franchise except to the extent another party is responsible for the harm or damage by its negligence or intentionally caused harm; provided, that if the responsibility of the City and its agents, representatives and authorized contractors does not arise as a contractual obligation, the Company shall have the right at its option to step in an defend such claim in its own right. The above general provisions notwithstanding, the City and its authorized contractors shall take reasonable precautionary measures including calling for utility location through Kansas One Call and exercising due caution when working near Company Facilities. (G) All technical standards governing construction, reconstruction, installation, operation, testing, use, maintenance and dismantling of the Facilities in the Right-of-Way shall be in accordance with applicable present and future federal, state and City laws and regulations including but not limited to the most recent standards of the Kansas Corporation Commission and Department of Transportation, or such substantive equivalents as may hereafter be adopted or promulgated. It is understood that the standards established in this paragraph are minimum standards and the requirement established or referenced in this franchise may be additional to or stricter than such minimum standards. (H) The City encourages the conservation of Right-of-Way by the sharing of space by all utilities. Notwithstanding provision of this franchise prohibiting third party use, to the extent required by federal or state law, the Company will permit any other franchised entity by appropriate contract or agreement negotiated by the parties to use any and all Facilities constructed or erected by the Company.

Section 7. Indemnity and Hold Harmless. The Company shall hold and save the City, its officers, employees, agents and authorized contractors harmless from and against all claims, demands, expenses, liability and costs, including attorney fees, to the extent occasioned in any manner by the Company's occupancy of the Right-of-Way, except to the extent that such were caused by the negligence or intentional conduct of the City, its officers, employees, agents or authorized contractors. In the event a claim shall be made or an action shall be instituted against the City growing out of such occupancy of the Right-of-Way by Facilities of the Company, then upon notice by the City to the Company, the Company will assume responsibility for the defense of such actions at the cost of the Company, subject to the option of the City to appear and defend, at its own cost, any such case; provided, that the Company shall have no duty to defend any such action to the extent that such action has resulted from the negligence or intentional conduct of the City, its officers, employees, agents or authorized contractors.

Section 8. Right to Assign. This franchise shall be assignable only in accordance with the laws of the state of Kansas, as the same may exist at the time when any assignment is made.

Section 9. Termination and Forfeiture of Franchise. In case of failure on the part of said Grantee, its successors and assigns, to comply with any of the provisions of this ordinance, or if said Grantee, its successors and assigns should do or cause to be done any act or thing prohibited by or in violation of the terms of this ordinance, said Grantee, its successors and assigns shall forfeit all rights and privileges granted by this ordinance and all rights hereunder shall cease, terminate

and become null and void, provided that said forfeiture shall not take effect until the Grantor shall carry out the following proceedings: (A) Before Grantor proceeds to forfeit said franchise, as in this section prescribed, it shall first serve a written notice upon the manager of said Grantee, and upon the trustee or trustees in any deed of trust securing bonds of said Grantee of record in Sedgwick County, Kansas, or the office of the Secretary of the State of Kansas, by mailing notice to such trustee or trustees to the address designated in such trust deed, setting forth in detail in such notice the neglect or failure complained of, and said Grantee shall have ninety (90) days thereafter in which to comply with the conditions of this franchise. (B) If, at the end of such ninety (90) day period, the Grantor deems that the conditions of such franchise have not been complied with by the Grantee and that such franchise is subject to cancellation by reason thereof, the Grantor, in order to terminate such franchise, shall enact an ordinance setting out the grounds upon which said franchise or agreement is to be canceled or terminated. (C)(1) If, within thirty (30) days after the effective date of said ordinance, the Grantee shall not have instituted an action either in the District Court of Sedgwick County, Kansas, or some other court of competent jurisdiction to determine whether or not the Grantee has violated the terms of this franchise and that the franchise is subject to cancellation by reason thereof, such franchise shall be canceled or terminated at the end of such thirty (30) day period. (2) If, within such thirty (30) day period the Grantee does institute an action as provided in (1) above, to determine whether or not Grantee has violated the terms of this franchise and that the franchise is subject to cancellation by reason thereof, and prosecutes such action to final judgment with due diligence, then, in that event, in case the court finds that the franchise is subject to cancellation by reason of the violation of its terms, this franchise shall terminate thirty (30) days after such final judgment is rendered; provided, however, that the failure of said Grantee to comply with any of the provisions of this ordinance or the doing or causing to be done by said Grantee of anything prohibited by or in violation of the terms of this ordinance shall not be grounds for the forfeiture thereof when such act or omission on the part of the said Grantee is due to any cause or delay beyond the control of said Grantee, its successors and assigns, or bona fide legal proceedings.

Section 10. Rights and Duties of Grantee Upon Expiration of the Franchise. Upon expiration of this franchise, whether by lapse of time, by agreement between Grantee and Grantor or by forfeiture thereof, the Grantee shall have the right to remove any and all of its mains and pipes, laterals, appurtenances and equipment used in its said business within a reasonable time after such expiration, but in such event, it shall be the duty of the Grantee immediately upon such removal to restore the streets, avenues, alleys, parks and other public ways and grounds from which said pipes, laterals and other equipment are removed to as good condition as the same were before said removal was effected.

Section 11. Acceptance of Terms by Grantee. Within sixty (60) days after the final passage and approval of this ordinance, Grantee shall file with the City Clerk of the City of Maize its acceptance in writing of the provisions, terms and conditions of this ordinance, which acceptance shall be duly acknowledged before some officer authorized by law to administer oaths; and when so accepted the ordinance and acceptance shall constitute a contract between Grantor and Grantee subject to the provisions of the laws of the state of Kansas.

Section 12. Conditions of Franchise. This contract, franchise, grant and privilege is granted and accepted under and subject to all applicable laws and under and subject to all of the orders, rules and regulations now or hereafter adopted by governmental bodies now or hereafter having jurisdiction, and each and every provision hereof shall be subject to acts of God, fires, strikes, riots, floods, war and other causes beyond Grantee's control. This franchise shall not be exclusive.

Section 13. Invalidity of Ordinance. If any clause, sentence or section of this ordinance shall be held to be invalid, it shall not affect the remaining provisions of this ordinance.

Section 14. Effective Date of Ordinance. This ordinance shall take effect and be in force from and after its passage and publication as required by law.

Section 15. Franchise Act. All contracts, grants, rights, privileges or franchises granted to Grantee in this ordinance for the use of the streets and alleys of the City of Maize shall be subject to and governed by the provisions of the Franchise Act (K.S.A. 12-201 et seq.) and amendments thereto.

Section 16. Repeal of Conflicting Ordinances. Ordinance No. 543, which was heretofore granted to this Grantee, and all other such ordinances and resolutions or parts thereof inconsistent or in conflict with the terms hereof, shall be canceled, annulled, repealed and set aside; provided, further, that this Ordinance shall become effective and be a binding contract between the Grantor and Grantee upon its final passage and approval by Grantor, in accordance with applicable laws and regulations, and upon Grantee's acceptance by written instrument, within sixty (60) days of passage by the City of Maize and filing with the Clerk of the City of Maize, Kansas. The Clerk of the City of Maize, Kansas shall sign and affix the community seal to acknowledge receipt of such acceptance, and return one copy to Grantee. If Grantee does not, within sixty (60) days following passage of this Ordinance, either express in writing its objections to any terms or provisions contained therein, or reject this Ordinance in its entirety, Grantee shall be deemed to have accepted this Ordinance and all of its terms and conditions.

Section 17. Notices. Any notices required to be given hereunder shall be sent to the following: If to the Grantee: External Affairs Manager, Black Hills Energy, 110 East 9th Street, Lawrence, KS 66044; if to Grantor: City of Maize, Kansas, ATTN: City Clerk, 10100 Grady Avenue, Maize, KS 67101.
(08-17-2009)

ORDINANCE NO. 822

A CONTRACT FRANCHISE ORDINANCE GRANTED TO SOUTHWESTERN BELL TELEPHONE COMPANY, d/b/a AT&T KANSAS, A TELECOMMUNICATIONS LOCAL EXCHANGE SERVICE PROVIDER PROVIDING LOCAL EXCHANGE SERVICE WITHIN THE CITY OF MAIZE, KANSAS.

Section 1. Grant of Franchise. Pursuant to K.S.A. 2008 Supp. 12-2001, a contract franchise ordinance is hereby granted to Southwestern Bell Telephone Company d/b/a AT&T Kansas ("AT&T Kansas"), a telecommunications local exchange service provider providing local exchange service within the City of Maize, Kansas (the "City"), subject to the provisions contained hereafter. The initial term of this contract franchise ordinance shall be for a period of two (2) years beginning February 1, 2011, and ending February 1, 2013. Thereafter, this contract franchise ordinance will automatically renew for additional one (1) year terms, unless either party notifies the other party of its intent to terminate the contract franchise ordinance at least ninety (90) days before the termination of the then current term. The additional term shall be deemed a continuation of this contract franchise ordinance and not as a new contract franchise ordinance or amendment. Pursuant to K.S.A. 2008 Supp. 12-2001(b)(2), under no circumstances shall this contract franchise ordinance exceed twenty (20) years from the effective date of the contract franchise ordinance. Compensation for said contract franchise ordinance shall be established pursuant to Section 3 of this ordinance.

Section 2. Definitions. For the purpose of this contract franchise ordinance, the following words and phrases and their derivations shall have the following meaning: (a) "Access line" shall mean and be limited to retail billed and collected residential lines; business lines; ISDN lines; PBX trunks and simulated exchange access lines provided by a central office based switching arrangement where all stations serviced by such simulated exchange access lines are used by a single customer of the provider of such arrangement. Access line may not be construed to include interoffice transport or other transmission media that do not terminate at an end user customer's premises, or to permit duplicate or multiple assessment of access line rates on the provision of a single service or on the multiple communications paths derived from a billed and collected access line. Access line shall not include the following: wireless telecommunications services, the sale or lease of unbundled loop facilities, special access services, lines providing only data services without voice services processed by a telecommunications local exchange service provider or private line service arrangements. (b) "Access line count" means the number of access lines serving consumers within the corporate boundaries of the City on the last day of each month. (c) "Access line fee" means a fee determined by the City, up to a maximum as set out in K.S.A. 2008 Supp. 12-2001, and amendments thereto, to be used by a telecommunications local exchange service provider in calculating the amount of access line remittance. (d) "Access line remittance" means the amount to be paid by a telecommunications local exchange service provider to the City, the total of which is calculated by multiplying the access line fee, as determined in the City, by the number of access lines served by that telecommunications local exchange service provider within the City for each month in that calendar quarter. (e) "Gross receipts" means only those receipts collected from within the corporate boundaries of the City enacting the franchise and which are derived from the following: (1) recurring local exchange service for business and residence which includes basic exchange service, touch tone, optional calling features and measured local calls; (2) recurring local exchange access line services for pay phone lines provided by a telecommunications local exchange service provider to all pay phone service providers; (3) local directory assistance revenue; (4) line status verification/busy interrupt revenue; (5) local operator assistance revenue; and (6) nonrecurring local

exchange service revenue which shall include customer service for installation of lines, reconnection of service and charge for duplicate bills. All other revenues, including but not limited to revenues from extended area service, the sale or lease of unbundled network elements, nonregulated services, carrier and end user access, long distance, wireless telecommunications services, line providing only data service without voice service processed by a telecommunications local exchange service provider, private line service arrangements, internet, broadband and all other services not wholly local in nature are excluded from gross receipts. Gross receipts shall be reduced by bad debt expenses. Uncollectible and late charges shall not be included within gross receipts. If a telecommunications local exchange service provider offers additional services of a wholly local nature which if in existence on or before July 1, 2002, would have been included with the definition of gross receipts, such services shall be included from the date of the offering of such services in the City. (f) "Local exchange service" means local switched telecommunications service within any local exchange service area approved by the state corporation commission, regardless of the medium by which the local telecommunications service is provided. The term local exchange service shall not include wireless communications services. (g) "Telecommunications local exchange service provider" means a local exchange carrier as defined in subsection (h) of K.S.A. 66-1,187, and amendments thereto, and a telecommunications carrier as defined in subsection (m) of K.S.A. 66-1,187, and amendments thereto, which does, or in good faith intends to, provide local exchange service. The term telecommunications local exchange service provider does not include an interexchange carrier that does not provide local exchange service, competitive access provider that does not provide local exchange service or any wireless telecommunications local exchange service provider. (h) "Telecommunications services" means providing the means of transmission between or among points specified by the user of information of the user's choosing, without change in the form or content of the information as sent and received.

Section 3. Franchise Fee. Compensation made pursuant to this contract franchise ordinance shall be paid on a quarterly basis without invoice or reminder from the City and paid not later than forty-five (45) days after the end of the remittal period. For the first year of this contract franchise ordinance, said compensation shall be five percent (5%) of gross receipts. Thereafter, compensation for each calendar year of the remaining term of the contract franchise ordinance shall continue to be five percent (5%) of gross receipts, unless the City notifies AT&T Kansas prior to ninety (90) days before the end of the calendar year that it intends to decrease the percentage of gross receipts for the following calendar year. Any increased access line fee or gross receipt fee shall be in compliance with the public notification procedures set forth in subsections (l) and (m) of K.S.A. 2008 Supp. 12-2001. In the event the City elects compensation based on a gross receipts fee, nothing herein precludes the City from switching to an access line fee provided the City notifies AT&T Kansas prior to ninety (90) days before the end of the calendar year that it intends to elect an access line fee for the following calendar year. Alternatively, in the event the City elects compensation based on an access line fee, nothing herein precludes the City from switching to a gross receipts fee provided the City notifies AT&T Kansas prior to

ninety (90) days before the end of the calendar year that it intends to elect a gross receipts fee for the following calendar year.

Section 4. Record. The City shall have the right to examine, upon written notice to the telecommunications local exchange service provider, no more than once per calendar year, those records necessary to verify the correctness of the compensation paid pursuant to this contract franchise ordinance. If the gross receipts or access line fee is determined to be erroneous, AT&T Kansas shall revise the gross receipts or access line fee accordingly and make payment upon such corrected gross receipts or access line fee.

Section 5. AT&T Kansas Responsibilities. As a condition of this contract franchise ordinance, AT&T Kansas is required to obtain and is responsible for any necessary permit, license, certification, grant, registration or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the Federal Communications Commission (FCC) or the Kansas Corporation Commission (KCC), subject to AT&T Kansas' right to challenge in good faith such requirements as established by the FCC, KCC or other City ordinance. AT&T Kansas shall also comply with all applicable laws, statutes and/or ordinances, subject to AT&T Kansas' right to challenge in good faith such laws, statutes and/or ordinances.

Section 6. Non-exclusive Grant. Nothing herein contained shall be construed as giving AT&T Kansas any exclusive privileges, nor shall it affect any prior or existing rights of AT&T Kansas to maintain a telecommunications system within the City.

Section 7. Collection and Remittance. AT&T Kansas shall collect and remit compensation as described in Section 3 on those access lines that have been resold to another telecommunications local exchange service provider.

Section 8. Annexation of Land by the City. The City agrees to use its best efforts to provide AT&T Kansas with notification in the event that it annexes property into the corporate boundaries of the City that would require AT&T Kansas to collect and pay a franchise fee on access lines or gross receipts which prior to the annexation of the property AT&T Kansas was not required to pay a franchise fee. The City agrees to use its best efforts to provide AT&T Kansas with notification in the event the City renumbers or renames any streets that would require AT&T Kansas to collect and pay a franchise fee on access lines or gross receipts which prior to the renumbering or renaming of the streets AT&T Kansas would not have been required to pay a franchise fee. The City agrees that in the event the City does not provide AT&T Kansas with notice of an annexation or renumbering and/or renaming of the streets, AT&T Kansas is not liable to the City for payment of franchise fees on the annexation or renumbered and/or renamed streets prior to the City providing notice to AT&T Kansas of such except and unless franchise fees were collected by AT&T Kansas prior to receiving such notice.

Section 9. Notices. Any required or permitted notice under this contract franchise ordinance shall be in writing. Notice upon the City shall be delivered to the city clerk by first class United States mail or by personal delivery. Notice upon AT&T

Kansas shall be delivered by first class United States mail or by personal delivery to: Southwestern Bell Telephone Company, Cindy Zapletal, Director-External Affairs, 1640 Fairchild Avenue, First Floor, Manhattan, Kansas 66502.

Section 10. Failure to Enforce. The failure of either party to enforce and remedy any noncompliance of the terms and conditions of this contract franchise ordinance shall not constitute a waiver of rights nor a waiver of the other party's obligations as provided herein.

Section 11. Force Majeure. Each and every provision hereof shall be subject to acts of God, fires, strikes, riots, floods, war and other disasters beyond AT&T Kansas' or the City's control.

Section 12. Invalidity of Ordinance. If any clause, sentence or section of this ordinance shall be held invalid, it shall not affect the remaining provisions of this ordinance.

Section 13. Enforcement. AT&T Kansas has entered into this contract franchise ordinance as required by the City and K.S.A. 2008 Supp. 12-2001. If any clause, sentence, section or provision of K.S.A. 2008 Supp. 12-2001 and amendments thereto shall be held to be invalid by a court of competent jurisdiction, either the City or AT&T Kansas may elect to terminate the entire contract franchise ordinance. In the event a court of competent jurisdiction invalidates K.S.A. 2008 Supp. 12-2001 and amendments thereto, if AT&T Kansas is required by law to enter into a contract franchise ordinance with the City, the parties agree to act in good faith in promptly negotiating a new contract franchise ordinance.

Section 14. Legal Rights. In entering into this contract franchise ordinance, neither the City's nor AT&T Kansas' present or future legal rights, positions, claims, assertions or arguments before any administrative agency or court of law are in any way prejudiced or waived. By entering into the contract franchise ordinance, neither the City nor AT&T Kansas waive any rights, but instead expressly reserve any and all rights, remedies, and arguments the City or AT&T Kansas may have at law or equity, without limitation, to argue, assert and/or take any position as to the legality or appropriateness of this contract franchise ordinance or any present or future laws, ordinances and/or rulings which may be the basis for the City and AT&T Kansas entering into this contract franchise ordinance.

Section 15. Termination. The parties agree that in the event of a breach of this contract franchise ordinance by either party, the non-breaching party has the right to terminate the contract franchise ordinance. Prior to terminating the contract franchise ordinance, the non-breaching party shall first serve a written notice upon the breaching party, setting forth in detail the nature of the breach, and the breaching party shall have thirty (30) days thereafter in which to cure the breach. If at the end of such thirty (30) days period the non-breaching party deems that the breach has not been cured, the non-breaching party may take action to terminate this contract franchise ordinance.

Section 16. Governing Law. This contract franchise ordinance is made under and in conformity with the laws of the State of Kansas. The contract franchise ordinance shall not be effective until the ordinance granting the same has been adopted as provided by law.
(12-20-2010)

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