

CHAPTER 1. ADMINISTRATION

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ARTICLE 1. GENERAL PROVISIONS

- 1-101 CODE DESIGNATED. The chapters, articles and sections herein shall constitute and be designated “The Code of the County of Douglas, Kansas,” and may be so cited. The Code may also be cited as the “Douglas County Code.” (Code)
- 1-102 DEFINITIONS. In the construction of this Code and of all resolutions of the County, the following definitions and rules shall be observed, unless such construction would be inconsistent with the manifest intent of the Board of County Commissioners or the context clearly requires otherwise:
- a) Board, Board of County Commissioners, Commission, County Board, County Commission shall mean the Board of County Commissioners of Douglas County, Kansas.
 - b) Code shall mean “The Code of the County of Douglas, 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 Douglas 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 County 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) In the County shall mean and include all territory over which the County now has, or shall hereafter acquire, jurisdiction for the exercise of its police powers or other regulatory powers.
- h) 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.
- i) Month shall mean a calendar month.
- j) Number. Words used in the singular include the plural and words used in the plural include the singular.
- k) Oath. 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."
- l) Officers, departments, etc. Officers, departments, boards, commissioners and employees referred to in this Code shall mean officers, departments, boards, commissioners and employees of the County, unless the context clearly indicates otherwise.
- m) Owner as applied to a building or land shall include not only the owner of the whole, but any part owner, joint owner, tenant in common or joint tenant of the whole or a part of such building or land.
- n) Person includes a firm, partnership, association of persons, corporation, organization or any other group acting as a unit, as well as in individual.
- o) Property includes real, personal and mixed property.
- p) Real Property includes lands, tenements, and hereditaments, and all rights thereto and interest therein, equitable as well as legal.
- q) Shall, May. "Shall" is mandatory. "May" is permissive.
- r) Sidewalk means any portion of a street between the curb line and the adjacent property line intended for the use of pedestrians.

- s) 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.
 - t) State shall be construed to mean the State of Kansas.
 - u) Street means and includes public streets, avenues, boulevards, highways, road, alleys, lanes, viaducts, bridges and the approaches thereto and all other public thoroughfares in the county.
 - v) Tenant or Occupant as 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.
 - w) Tenses. Words used in the past or present tense include the future as well as the past and present.
 - x) Writing or Written may include printing, engraving, lithography and any other mode of representing words and letter, except those cases where the written signature or the mark of any person is required by law.
 - y) Year means a calendar year, except where otherwise provided. (Code)
- 1-103 EXISTING RESOLUTIONS. The provisions appearing in this Code, so far as they are in substance the same as those of resolutions existing at the time of the effective date of this Code, shall be considered as continuations thereof and not a new enactment. (Code)
- 1-104 EFFECT OF REPEAL. The repeal of a resolution shall not revive a resolution 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 resolution repealed, except as shall be expressly stated therein. (Code)
- 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)
- 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 indicating only the source and the text may or may not be changed by this Code. Reference matter not in parenthesis is for information only and is not a part of this Code. (Code)

- 1-107 AMENDMENTS; REPEAL. Any portion of this Code may be amended by specific reference to the section number as follows; "Section (article or chapter) ____ of the Code of the County of Douglas 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 County of Douglas 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, articles, or chapters to be repealed shall be repealed by specific reference as follows: "Section (article or chapter) ____ of the Code of the County of Douglas is hereby repealed." (Code)
- 1-108 RESOLUTIONS; SUBJECT AND TITLE; AMENDMENT. No resolution shall contain more than one subject, which shall be clearly expressed in its title; and no section or sections of a resolution shall be amended unless the amending resolution contains the entire section or sections amended and the section or sections amended shall be repealed. (Code)
- 1-109 SAME; PUBLICATION; EFFECTIVE DATE. Resolutions, including amendments, additions or repeals to the Code, adopted by the Board of County Commissioners shall be published in the official County newspaper if such publication is required by State statute, or if the resolution requires such publication. Except when another effective date is stated in a resolution, published resolutions shall become effective upon publication or, if so required, final publication. All other resolutions shall become effective upon adoption, unless a different effective date is provided for therein. (Code)
- 1-110 SAME; RESOLUTION RECORDS. Following adoption of each resolution, the County clerk shall enter the same in the resolution records of the County. (Code)
- 1-111 ALTERING CODE. It shall be unlawful for any person, firm, corporation, or other group 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 County of Douglas to be misrepresented thereby. This restriction shall not apply to amendments or revisions of the Code authorized by resolution duly adopted by the Board of County Commissioners. (Code)
- 1-112 SCOPE. Any person convicted of doing any of the acts or things prohibited, made unlawful, or 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 the Code

and punished in accordance with Section 1-113. Each day any violation of this Code continues shall constitute a separate offense. (Code)

- 1-113 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 K.S.A. 19-101d (as amended). (Code)
- 1-114 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 the Code. (Code)

ARTICLE 2. BOARD OF COUNTY COMMISSIONERS

- 1-201 COMMISSION POWERS. The powers of Douglas County as a body politic and corporate shall be exercised by the Board of County Commissioners pursuant to K.S.A. 19-103 (1995). (Code)
- 1-202 SAME; NUMBER, DISTRICTS. The Board of County Commissioners shall consist of three (3) qualified electors. The Commission shall divide the County into three (3) commissioner districts as provided by law in K.S.A. 19-201 et. seq. (as amended). (Code)
- 1-203 REGULAR MEETINGS. The Board of County Commissioners shall meet at 9:00 a.m. on Monday and 6:35 p.m. on Wednesday every week at the County Courthouse Commission meeting room. When such meeting day shall be on a legal holiday (or any other day observed as a holiday by the County), the Board may fix the succeeding day not observed as a holiday as a regular meeting day. Upon a motion properly made and seconded, the board may cancel or reschedule any regular meeting of the Board or change the location of the meeting. All regular meetings will be convened pursuant to K.S.A. 75-4317 et seq and an agenda for each regular meeting will be prepared. (Code)
- 1-204 SPECIAL MEETINGS. The Board may meet in special session on the call of the Chairman for the transaction of any general or special business or at the request of a majority of the members on the Board. All special meetings will be convened pursuant to K.S.A. 75-4317 et seq and an agenda for each special meeting will be prepared. The nature of the business to be transacted at any called meeting shall be governed by the matters and things set out in the agenda for said meeting. (K.S.A. 19-209 (as amended)). (Code)

1-205 MEETING PROTOCOL. Meetings of the Board of County Commissioners will be convened by the Chairman at the time stated on the meeting agenda. The meetings will thereafter be conducted pursuant to Robert's Rules of Order.

- a) Agenda items will be generally reviewed as follows:
- b) Agenda item presented and explained by requesting party.
- c) Commissioner discussion and questions.
- d) Public input.
- e) Final discussion and action by commissioners.

Persons attending meetings may be allowed to address the Board on agenda items when they have been recognized by the Chairman. However, no person has a right to be disruptive.

1-206 After discussion of an agenda item, the Board may take action by formal motion. A formal motion must be stated, seconded, and voted on by public vote of each participating commissioner. No secret ballots are allowed.

1-207 EXECUTIVE SESSIONS. The Board of County Commissioners may hold executive sessions pursuant to K.S.A. 75-4319. In order to go into executive session the provisions of K.S.A. 75-3419(a) shall be followed.

1-208 ROUTINE BUSINESS, ABSENCE OF QUORUM. In the event that the temporary absence or illness of two members of the Board prevents a regularly scheduled meeting of the Board due to the lack of a quorum, the remaining Commissioner is hereby empowered to transact all routine administrative business of the Board. "Routine Administrative Business" shall include, but not be limited to:

- a) Approval of all valid claims, employee expense vouchers and payroll vouchers;
- b) Approval of all personnel actions consistent with the Douglas County Personnel Policy and other resolutions or policies of the Board;
- c) Approval of the purchase of supplies, equipment or contract services in accordance with the Douglas County Purchasing Guidelines, including the issuance of notices or solicitation of bids and approval of successful bids, when such purchases are necessary in order to:
 - 1) Avoid additional expense to the County; or
 - 2) Avoid undue delay in the completion of a project or activity that has received previous commissioner authorization; or

- 3) Avoid public inconvenience or a threat to the public health, safety or welfare; or
- 4) Any engineering, utility, right-of-way and construction contracts for County road and bridge projects that have received previous Commission authorization. (Res. 85-49)

1-209 SAME; REPORT AND RATIFICATION. At the next regularly scheduled meeting of the Board at which a quorum is present, the Commissioner who exercised the power delegated by Section 1-207 of the Code shall make a full report on the routine administrative actions taken pursuant thereto. Upon a motion properly made and seconded, all such actions may be ratified by the Board. (Res. 85-49)

ARTICLE 3. OFFICE OF COUNTY ADMINISTRATOR

1-301 OFFICE OF COUNTY ADMINISTRATOR; ESTABLISHED. There is hereby established the Office of the Douglas County Administrator. The County Administrator shall be selected on the basis of administrative and executive ability, education, experience and knowledge of government operations. The County Administrator shall be appointed and be subject to removal by a majority of the County Commission and the County Administrator shall receive all benefits received by County department heads and employees. The County Administrator shall serve in the "Classified-Exempt" service under the Douglas County Personnel Policy. (Res. 86-8-7, Sec. 1)

1-302 SAME; DUTIES. The County Administrator, as the chief administrative officer of the County, shall have the authority to organize the operation of the County consistent with, and subject to, all statutory and legal requirements, and subject to the supervision and discretion of the Board of County Commissioners.

[Res. HR-23-2-1, Sec. 1]

1-303 COUNTY COUNSELOR. The County Counselor shall be appointed by the County Commission and shall be responsible thereto. The County Counselor shall serve to protect the County's interest in all legal proceedings and matters and shall carry out the following duties:

- a) Provide direct legal counsel, advice and services to the County Commission, County Administrator, County department heads and elected officials; and

- b) Ensure County policies, programs and operations are in compliance with statutory and other legal requirements by providing review and oversight thereof; and
- c) Represent the County in all legal proceedings; and
- d) Carry out such other duties or projects of a legal nature as provided by law or as the County Commission or County Administrator may from time to time direct or request. (HR 86-8-7, Sec. 3)

ARTICLE 4. PERSONNEL POLICIES, REGULATIONS AND POSITIONS

1-401 POSITION CLASSIFICATION SYSTEM. The County Commission is hereby authorized to establish and adopt by ordinary resolution a position classification system for use in all the departments of Douglas County government. The position classification system may be amended by motion as needed from time to time and shall, at a minimum, consist of the following:

1-402 PAY PLAN.

- a) The County Commission is hereby authorized to adopt by ordinary resolution a pay plan containing appropriate pay grades and steps. The pay plan shall:
 - 1) Provide for equal compensation for work of equivalent responsibility;
 - 2) Establish a method of rewarding employees for continued service; and
 - 3) Establish pay rates which compare favorably with those of other public and private organization competing for well qualified employees for positions similar to those found in County government. The pay plan shall provide for the annual compensation of the individuals holding the offices of Clerk, Register of Deeds, Sheriff and Treasurer and the employees thereof.
- b) The pay plan may be amended by ordinary resolution as needed from time to time to keep the pay plan current. Policies for continuing administration of the pay plan also may be amended by ordinary resolution. (HR 86-7-6, Sec. 2)

1-403 RELATED COMPENSATION POLICIES. The County Commission is hereby authorized to adopt such related personnel and compensation policies as it deems necessary to effectuate the position classification system and pay plan. Such policies may include, but shall not be limited to, matters

concerning compensation for tenure of service (longevity), performance appraisal, probation, and limits on additional compensation. (HR 86-7-6, Sec. 3)

1-404 INCORPORATION OF PERSONNEL POLICY. There is hereby adopted and incorporated by reference the Douglas County Personnel Policy. This policy may be amended by motion of the Commission.

1-405 SAME; DISTRIBUTION. Each Douglas County department shall have a minimum of one (1) personnel policy manual accessible to employees within the department. It shall be the responsibility of the Assistant County Administrator to distribute such personnel policy manuals and to maintain a list of the location of all such manuals. (Res. 95-15, Sec. 2)

1-406 PUBLIC SAFETY EMPLOYEE SMOKING POLICY; DEFINITIONS. The following words and phrases when used in Sections 1-407– 1-408 of this Code shall, for the purposes of those sections, have the meanings respectively ascribed to them herein:

- a) Public Safety Employee means any employee eligible for coverage by the Kansas Police and Firemen's Retirement System.
- b) Smoke/smoking means inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe or weed. Such terms also mean chewing, sniffing or otherwise using smokeless tobacco.
- c) Physical Fitness Test means a series of tests designed to measure an individual's overall physical fitness and approved by the County Administrator. (HR 98-2-2, Sec 2)

1-407 SAME; NON-SMOKING AS A CONDITION OF EMPLOYMENT. On and after the effective date of this resolution, all eligible public safety employees who are offered and accept employment with Douglas County shall agree as a condition of such employment to refrain from smoking during the scheduled workday and while off duty. A violation of this condition of employment shall constitute insubordination as defined by Sections 6.18 and 6.19 of the Douglas County Personnel Policy, as amended. Such violation shall be subject to the appropriate disciplinary action as provided therein. (HR 98-2-2, Sec. 3)

1-408 PHYSICAL FITNESS REQUIREMENTS.

- a) Pre-employment. On and after the effective date of this section, all final candidates for public safety positions shall be administered a physical fitness test. Candidates must achieve an overall score at or above the

40th percentile in order to be eligible for employment for a public safety position. In the event of extenuating circumstances, the County Administrator (or his/her designee) may make exceptions to the 40th percentile requirement. When such an exception has been granted, the individual shall be required to achieve the 40th percentile on the physical fitness test prior to the completion of the individual's first year of employment.

- b) Post-employment. Each public safety employee shall be required to take an annual physical test. In order to be eligible for a merit and/or bonus award for the calendar year, the employee must achieve at least the 40th percentile total score on the physical fitness test.
 - 1) Exceptions.
 - (a) Personal Medical Condition. Should an employee be unable to perform the physical fitness test due to a medical condition not caused by a work-related activity, the employee must submit a written note from his/her personal physician detailing (1) the condition preventing the employee from participating in the testing; (2) how long this medical condition is expected to continue. Should the condition be expected to continue beyond the calendar year, for the purposes of determining merit eligibility, the employee will be assigned the previous year's physical fitness test score. Should a public safety employee be unable to participate in physical fitness testing for two (2) or more consecutive years due to one (1) or more medical conditions, in addition to the physician's note as described above, the employee will be required to provide a statement from his/her personal physician that the employee is able to perform all the duties of the job as described in his/her job description, which is to be provided to the physician by the department head.
 - (b) If the medical condition is due to a work-related injury and treatment is being supervised by Douglas County, such medical notes will be requested by Douglas County of the treating physician.
 - 2) REFUSAL. Refusal to participate in the physical fitness testing program and/or refusal to provide a qualifying statement from a physician, shall be considered insubordination and shall be subject to the appropriate disciplinary processes as described in the Douglas County Personnel Policy. (HR 98-2-2)

- 1-409 OFFICES OF COUNTY AUDITOR AND ASSISTANT COUNTY AUDITOR ESTABLISHED. The offices of County Auditor and Assistant County Auditor are hereby established. The County Auditor and Assistant County Auditor shall be appointed by the Board for a term of two years commencing January 1 of odd-numbered years, to serve until December 31 of the following even-numbered year or until a successor is appointed and qualified. The appointment of the County Auditor and Assistant County Auditor shall be by motion and vote by the board and shall be placed in the minutes of the Board. (HR 89-4-1, Sec. 1)
- 1-410 SAME; COMPENSATION. The compensation of the County Auditor and Assistant County Auditor shall be as determined by the Board. Such offices may be held by persons who are also employed by Douglas County in some other capacity, and the Board shall determine whether the additional duties of such offices shall result in additional compensation. (HR 89-4-1, Sec. 2)
- 1-411 SAME; DUTIES.
- a) The duties of County Auditor shall be as directed by the Board and shall specifically include the duty to audit and approve claims pursuant to the “Uniform Procedure for Payment of Claims and Other Indebtedness” under K.S.A. 12-105a and K.S.A. 12105b. The Assistant County Auditor shall perform such duties in the absence of the County Auditor.
 - b) In the absence or other unavailability of the Assistant County Auditor to audit and approve claims, such duties shall be exercised by the County Counselor of Douglas County. (HR 89-4-1, Sec. 3)
- 1-412 CHARTER RESOLUTION 07-6-2. Sections 1-409, 1-410, 1-411 are amended by and subject to the provisions of Charter Resolution No. 07-6-2, which provides as follows:
- a) Section 1. Exemption. The County, by the power vested in it by K.S.A. 19-101b, hereby elects to exempt itself from and make inapplicable to it, the provisions of K.S.A. 19-620, K.S.A. 19-621, and K.S.A. 19-626.
 - b) Section 2. Substitute Provisions for K.S.A. 19-620. The County, by the power vested in it by K.S.A. 19-101b, hereby provides substitute and alternate provisions for K.S.A. 19-620 as follows:

The Board of County Commissioners shall have the power to appoint a person as the County Auditor, to serve at the pleasure of the Board of County Commissioners, until such person is removed from office or resigns from office, whichever occurs first. In addition to other duties authorized or required by law, the County Auditor shall perform such

duties as the Board of County Commissioners may, from time to time, prescribe.

- c) Section 3. Substitute Provisions for K.S.A. 19-621. The County, by the power vested in it by K.S.A. 19-101b, hereby provides substitute and alternate provisions for K.S.A. 19-621 as follows:

Within 10 days after being appointed as County Auditor, such person shall execute and file with the County Clerk, a surety bond in favor of the County, in the penal sum of \$20,000 or such greater amount as the Board of County Commissioners may require. The bond shall be conditioned that the County Auditor will faithfully perform the duties of his or her office. The bond and surety thereon shall be approved by the Board of County Commissioners, which approval shall be made a part of its records. A bond conditioned and approved as set forth above, and executed by a surety authorized to do business under the laws of the State of Kansas, shall constitute sufficient surety, and the premium on said bond shall be pay by the County.

- d) Section 4. Substitute Provisions for K.S.A. 19-626. The County, by the power vested in it by K.S.A. 19-101b, hereby provides substitute and alternate provisions for K.S.A. 19-626 as follows:

The Douglas County Auditor shall receive such salary, together with such cost of living adjustments, as the Board of County Commissioners may, from time to time, determine appropriate.

ARTICLE 5. PUBLIC RECORDS

1-501 PUBLIC RECORDS; FEES FOR ACCESS OR COPIES. The Board delegates to the County Administrator the authority and duty to adopt and, from time to time, amend a fee schedule for the various custodians of the records of Douglas County to use when assessing charges for access to and copies of the public records of Douglas County. The fee schedule, however, shall not assess charges in excess of those permitted by applicable law. (Res. 15-21, Sec. 1)

1-502 ADVANCE PAYMENT; WHEN NECESSARY. County records custodians may require advance payment of estimated fees when the total fees will exceed \$1.00, when the request is made through mail or electronic communication, or when it is determined by advance payment is advisable to ensure prompt payment of applicable charges. (Res. 15-21, Sec. 1)

1-503 DEPOSIT OF CHARGES. The records custodians of the various departments of Douglas County shall remit all money received pursuant to

Section 1-501 of this Code to the County Treasurer at least monthly. Upon receipt, the County Treasurer shall deposit the entire amount and credit the same to the general fund of the County, unless otherwise specifically provided by law. (Res. 15-21, Sec. 1)

1-504 LOCAL FREEDOM OF INFORMATION OFFICER. Pursuant to K.S.A. 45-226, the County Administrator shall appoint a freedom of information officer. The local freedom of information officer shall be available to the general public and records custodians to answer questions, resolve disputes, and assist in appropriately responding to requests for inspecting and copying public records. (Res. 15-31, Sec. 1)

1-505 OFFICIAL CUSTODIANS.

- a) APPOINTMENT. Except as otherwise provided by other applicable law, all department heads are official records custodians for public records on file in their respective departments.
- b) SUBORDINATE OFFICERS. Each of the official custodians appointed in subsection (a) of this section may designate any subordinate officers or employees to serve as record custodians. Such record custodians shall have such duties and powers as are set out in the Kansas Open Records Act.
- c) DUTIES OF CUSTODIANS. All Douglas County officers and employees appointed or designated under this section shall:
 - 1) Protect public records from damage and disorganization.
 - 2) Prevent excessive disruption of the essential functions of the Douglas County.
 - 3) Provide assistance and information upon request and ensure efficient and timely action and response to all written applications for inspection or copying of public records.
 - 4) Comply with the Kansas Open Records Act and carry out the procedures adopted for inspecting and copying public records.
- d) WRITTEN REQUESTS TO BE DIRECTED TO CUSTODIANS.
 - 1) 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 written requests to the custodian charged with responsibility for the maintenance of the record sought to be inspected or copied.
 - 2) Whenever any Douglas County officer or employee appointed or designated as a custodian under this section is presented with a

written request for access to, or copy of, a public record, which record the custodian does not possess and for which the custodian has not been given responsibility to keep and maintain, the custodian shall so advise the person requesting the record. The person making the request shall be informed as to which custodian the request should be addressed to, if such is readily known by the custodian receiving the request. (Res. 15-31, Sec. 1)

1-506 ACCESS AND COPYING PROCEDURES. The following procedures are adopted and shall be applied by each official custodian and record custodian.

- a) Consistent with the policy, duties and procedures established by the Kansas Open Records Act, all Douglas County record custodians shall provide full access and assistance in a timely and efficient manner to persons who request access to open public records in writing. Certain records, however, may be excluded from public access. These records are identified and K.S.A. 45-221(a).
- b) Record custodians may adopt and apply additional open public record access and copy procedures consistent with the policies of the Douglas County and with the provisions of the Kansas Open Records Act.
- c) Record custodians may adopt and apply procedures that will ensure the protection and preservation of public records with respect to the manner in which such records are inspected and copied.
- d) Record custodians shall take necessary measures, not inconsistent with their duties, to provide access to open public records and to ensure that the essential functions of the custodian's office, department or agency are not disrupted by requests for record inspection and copying.
- e) A records custodian may require a written request for inspection of public records but shall not otherwise require a request to be made in any particular form. Except as otherwise provided by Kansas Open Records Act and this section, a records custodian shall not require that a request contain more information than the requester's name and address and the information necessary to ascertain the records to which the requester desires access and the requester's right of access to the records. A records custodian may require proof of identity of any person requesting access to a public record. No request shall be returned, delayed or denied because of any technicality unless it is impossible to determine the records to which the requester desires access.
- f) Each written request for access to a public record shall be acted upon as soon as possible, but not later than the end of the third business day following the date that the request is received. If access to the public record is not granted immediately, the custodian shall give a detailed

explanation of the cause for further delay and the place and earliest time and date that the record will be available for inspection.

- g) If the written request for access is denied, the custodian shall provide, upon request, a written statement of the grounds for denial. Such statement shall cite the specific provision of law under which access is denied and shall be furnished to the requester not later than the end of the third business day following the date that the request for the statement is received.
- h) The custodian may refuse to provide access to a public record, or to permit inspection, if a request is not in writing, places an unreasonable burden in producing public records or if the custodian has reason to believe that repeated requests are intended to disrupt other essential functions of the public agency. However, refusal under this subsection must be sustained by preponderance of the evidence.
- i) If access to public records or the purpose for which the records may be used is limited pursuant to K.S.A. 45-221 or 45-230, and amendments thereto, the records custodian may require a person requesting the records or information therein to provide written certification that:
 - 1) The requester has a right of access to the records and the basis of that right; or
 - 2) The requester does not intend to, and will not: (A) Use any list of names or addresses contained in or derived from the records or information for the purpose of selling or offering for sale any property or service to any person listed or to any person who resides at any address listed; or (B) sell, give or otherwise make available to any person any list of names or addresses contained in or derived from the records or information for the purpose of allowing that person to sell or offer for sale any property or service to any person listed or to any person who resides at any address listed. (Res. 15-31, Sec. 1)

ARTICLE 6. PURCHASING POLICIES AND SERVICE AGREEMENTS

- 1-601 ADMINISTRATION. There is hereby adopted and incorporated by reference for the purpose of establishing purchasing policies and procedures the document entitled the Douglas County Purchasing Policy. This policy may be amended by motion of the Commission.
- 1-602 CONTRACTS FOR PERSONAL PROPERTY TAX COLLECTION. The County Commission may employ or enter into such contract or contracts it deems advisable with attorneys or other persons to assist the County in the

- collection of personal property taxes remaining unpaid from and after the date the same became a judgment of the County against the person or persons responsible therefor as provided in K.S.A. 1985 Supp. 79-2101, as amended. Any such contract shall be in writing and may be on a contingent fee basis, but in no event shall such fee exceed 50 percent of the amount collected. Any taxes so collected shall be credited ratably to the funds for which said taxes were levied. (HR 86-8-8, Sec. 1)
- 1-603 SAME; BOND, REPORT. Any person, other than the sheriff, with whom the County has contracted for the collection of personal property taxes shall furnish a good and sufficient bond, in an amount to be fixed by the County Commission, for the faithful discharge of his or her duties and for the payment to the County of all moneys collected pursuant to the contract. Such contract shall provide that the contract collector shall, at least monthly, on a date fixed in the contract, file with the County Treasurer a verified report and account of the taxes collected during the preceding month and at the same time, the contract collector shall pay to the County Treasurer the full amount collected during such month. (HR 86-8-8, Sec. 2)
- 1-604 TREASURER ACCEPT PARTIAL PAYMENTS. In order to facilitate the systematic collection and payment of delinquent personal property taxes, the County Treasurer is hereby authorized to accept any partial payments of personal property taxes that may be collected by the contract collector and paid to the County Treasurer. At his or her discretion, the County Treasurer also may accept such other partial payments as the Treasurer may deem advisable. The acceptance of any partial payments, however, shall not relieve the taxpayer of the obligation to pay the interest penalty prescribed by K.S.A. 79-2004a on the full amount of the personal property tax judgment until the tax debt is paid in full. (HR 86-8-8, Sec. 3)

ARTICLE 7. DEPOSIT AND INVESTMENT OF PUBLIC FUNDS

- 1-701 DEPOSITORIES OF ACTIVE FUNDS.
- a) The Board of County Commissioners shall, from time to time, designate by official action recorded on its minutes, those financial institutions that shall serve as depositories of such of the County's funds that are required for payment of current claims and expenses of the County. Only those state and nationally chartered banks, savings and loan associations, and savings banks that are eligible to serve as depositories pursuant to K.S.A. 9-1401 and amendments thereto may be designated as depositories of such active funds. (Res. 11-10, Sec.1)

- b) The County Investment Officer and the Assistant County Administrator shall, from time to time, issue a request for bids to all financial institutions eligible to serve as a depository of County funds, requesting bids for the total cost of administering the County's active account. Upon receipt of such bids and analysis thereof by the County Investment Officer and the Assistant County Administrator, the Board of County Commissioners shall select a primary depository institution for such funds. (R-01-38, Sec. 1)
- c) If required by the Board of County Commissioners or the County Investment Officer, each official depository designated by the Board shall enter into a depository contract with the Board detailing the terms of the deposit of County funds therein. (Res. 11-10, Sec.1)

1-702 INVESTMENT OF IDLE FUNDS. The County Investment Officer shall deposit County funds not immediately required for the purposes for which collected or received in accordance with the provision of K.S.A. 12-1675 et seq., as amended and this Article. (R-01-38, Sec. 1)

1-703 INVESTMENT POLICY. In investing the County's funds, the primary objectives of the Board of County Commissioners are (in order of priority): (1) safety of principal, (2) maintenance of adequate liquidity, and (3) maximization of earnings from County funds. To satisfy the first two objectives and also satisfy the third objective, it is the policy of the Board of County Commissioners that an aggressive cash management program and investment policy be pursued to take advantage of investment interest as a viable and material revenue source for all operating and capital funds. It is further the policy of the Board of County Commissioners to invest its funds and use the earnings from the investment of its funds in a manner consistent with all applicable state and local laws. (R-01-38, Sec. 1)

1-704 COUNTY INVESTMENT OFFICER. The Douglas County Treasurer is hereby designated the official County Investment Officer. The County Investment Officer shall invest the County's funds in accordance with the provisions of this Article. In furtherance of this office, the County Investment Officer shall do the following: (1) Maintain economic forecasts and investment strategies; (2) solicit and evaluate possible investment opportunities; (3) prepare reports on collateral and ensure sufficient collateral has been established; and (4) in consultation with the Assistant County Administrator, prepare reports on the cash flow needs of the County and the County's available liquid funds to determine when additional idle funds will be available for investment or when invested idle funds will be needed. (Res. 11-10, Sec. 1)

1-705 (Repealed, Res. 11-10, Sec.1)

1-706 OVERSIGHT OF BOARD OF COUNTY COMMISSIONERS. The activities of the County Investment Officer under this Article shall be subject to the oversight and control of the Board of County Commissioners. (Res. 11-10, Sec. 1)

ARTICLE 8. ADVISORY COUNCILS AND BOARDS

1-801 LAWRENCE-DOUGLAS COUNTY ADVISORY COUNCIL ON ECONOMIC DEVELOPMENT.

- a) There is hereby established the Lawrence-Douglas County Advisory Council on Economic Development. The Council shall consist of seven members, three of whom shall be appointed by the Douglas County Board of County Commissioners and three of whom shall be appointed by the City of Lawrence. One member shall be jointly appointed.
- b) The individuals who are first appointed to serve on the Council shall serve for the following terms of office or until their successors are appointed and qualified: two City appointees and two County appointees shall serve initial terms of four years; the joint appointee and one City appointee and one County appointee shall serve initial terms of two years.
- c) After appointment of the initial members of the Advisory Council, all individuals appointed to the Council shall serve terms of office of four years. No person may serve more than two consecutive four year terms on the Council. Each appointee shall continue to serve on the Council until his or her successor is appointed and qualified.
- d) One City Commissioner, the City Manager, one County Commissioner and the County Administrator shall serve as non-voting ex-officio members of the council. (Res. 89-44, Sec. 1)

1-802 SAME; FUNCTIONS. The Advisory Council shall carry out the following functions and responsibilities:

- a) Meet at least on a quarterly basis with representatives of the economic development marketing program to review progress with the retention and recruitment of manufacturing and other businesses which may have a significant economic impact on the Lawrence-Douglas County area.
- b) Review the proposed budget of the economic development marketing program each year and recommend to the County and City a level of funding in support of the program for the next fiscal year; and

- c) Review on an ongoing basis the economic development policies of the City and County and advise the City and County thereon. (Res. 89-44, Sec. 2)
- 1-803 DOUGLAS COUNTY FAIR BOARD, ANNUAL APPOINTMENT. On or before November 1 of each year, the Board of County Commissioners shall appoint 10 residents of the County to serve on the Douglas County Fair Board. No more than one individual shall be appointed from each of the nine townships and the City of Lawrence. (HR 88-95, Sec. 1)
- 1-804 SAME; TERMS AND VACANCIES. Individuals appointed to serve on the Douglas County Fair Board by the Board of County Commissioners may serve a maximum of six one-year terms of office. Each such term shall commence on February 1 and conclude on January 31 of the following year. If a board member resigns, an appointment shall be made by the Board of County Commissioners to fill the unexpired one year term. Any such appointee shall be eligible to serve the remaining number of one-year terms of the person they replace, and at the end of such period that person may be considered by the Board of County Commissioners for appointment for six one-year terms. (HR 88-9-5, Sec. 2)
- 1-805 SAME; RESPONSIBILITIES. As provided in K.S.A. 2-133, the Douglas County Fair Board of its executive board shall have responsibility for the management and control of the business of the fair association and its property, subject to the approval of the Board of County Commissioners. At the December meeting, the Fair Board may invite the newly appointed members of the Fair Board whose terms of office shall commence on February 1 of the succeeding year to meet in joint session with the current Fair Board. Such joint meeting shall be held for the purpose of insuring continuity of board operations. (HR 88-9-5, Sec. 3)
- 1-806 TERM LIMITS FOR BOARDS AND COMMISSIONS.
- a) Neither the Board of County Commissioners nor any individual member of the Board of County Commissioners shall reappoint any individual to any particular board, authority, committee, commission, council, or other body, whether purely advisory, having specific authority or a combination of both, if such individual shall have already served two full consecutive terms or six full consecutive years, whichever is longer. For purposes of determining eligibility for reappointment, the unexpired term of an individual appointed to fill an unexpired term shall not count as a full term of service and the years in the unexpired term shall not count as years of service.

- b) The limitation of paragraph (a) shall not apply to the extent it is in conflict with term limits set forth in any applicable statute, resolution, interlocal agreement, or other governing document relating to the appointment of individuals to any particular board, authority, committee, commission, council or other body.
- c) The limitation of paragraph (a) shall not apply to limit the reappointment of employees or officials of Douglas County to any particular board, authority, committee, commission, council or other body or to limit the appointment of ex officio members to any such body. (HR 04-1-1, Sec. 1)

ARTICLE 9. SMOKING IN PUBLIC BUILDINGS AND VEHICLES

- 1-901 It shall be unlawful for any person to smoke within a building or vehicle which is owned or leased by Douglas County, Kansas.
- 1-902 There shall be no areas within buildings or vehicles which are owned or leased by Douglas County, Kansas, designated as smoking areas. The County Administrator may designate areas outside of buildings owned or leased by the County as areas in which smoking is permitted.
- 1-903 Smoking shall be defined as the use of cigarettes, cigars, pipes, and shall include nicotine delivery devices that create a smoke or vapor, such as e-cigarettes and vaporizers.
- 1-904 Violation of this Article shall be deemed to be in violation of the provisions of the Kansas Indoor Clean Air Act, K.S.A. 21-6109 through 21-6116, inclusive, as amended. To the extent that the prohibitions in this Article are broader than the foregoing act, violations may be prosecuted the same as violations of county codes and regulations, and the penalty shall be the same as for violations of K.S.A. 21-6110, as amended. (HR 14-10-3, Sec. 1)

ARTICLE 10. OFFICIAL COUNTY NEWSPAPER

- 1-1001 OFFICIAL COUNTY NEWSPAPER. The Lawrence Journal World is the official county newspaper.
- 1-1002 PUBLICATION OF QUARTERLY STATEMENTS. In addition to publication in the official county newspaper, all quarterly statements published by the county shall be published in The Baldwin Ledger and The Eudora News.

ARTICLE 11. ISSUANCE OF TEMPORARY NOTES

- 1-1101 FACTORS TO BE CONSIDERED TO DETERMINE WHEN NOTES WILL BE PURCHASED AS AN INVESTMENT. The Director of Assistant County Administrator or his/her designee will consult with the County Treasurer to determine the desirability of purchasing temporary notes of the County on a case by case basis. The factors to be considered shall include, but not be limited to, the amount of liquid funds available in the County treasury, the future cash needs of the County, the length of the term of the notes, and the amount of the notes. (Res. 96-46, Sec. 1)
- 1-1102 INTEREST PAID ON NOTES. One of the following formulas, at the discretion of the County Administrator or his/her designee, shall be used to determine the interest rate to be paid on notes purchased by the County:
- a) The annual interest rate, determined by the County Treasurer, shall be an amount equal to the Investment Rate established for the State of Kansas pursuant to K.S.A. 75-4210 not greater than two (2) weeks prior to the issuance of the temporary notes plus fifty (50) basis points.
 - b) The annual interest rate shall be an amount equal to the lowest of three (3) solicited rates from banks involved in the purchase of bank-qualified notes not greater than two (2) weeks prior to the issuance of the temporary notes. (Res 96-46, Sec. 1)

ARTICLE 12. DESIGNATION OF VEHICLES AS AUTHORIZED EMERGENCY VEHICLES

- 1-1201 APPLICATIONS. Prior to any vehicle being designated an authorized emergency vehicle the owner shall submit an application to the Sheriff of Douglas County, hereinafter call Sheriff. The application shall be on such form as the Sheriff provides.
- 1-1202 REVIEW OF APPLICATIONS. After receipt of an application the Sheriff shall review the application and make such further investigation as the Sheriff deems necessary.
- 1-1203 DESIGNATION OF VEHICLES. If, after review of the application, the Sheriff finds that the designation of such vehicle is necessary to the preservation of life or property or to the execution of emergency governmental function, the Sheriff shall issue, in writing, a designation of the vehicle as an authorized emergency vehicle.
- 1-1204 USE OF VEHICLES. The document furnished by the Sheriff designating a vehicle as an authorized emergency vehicle shall be carried in the vehicle at all times and shall be used in compliance with the statutes pertaining to

emergency vehicles. A vehicle designated as an authorized emergency vehicle shall be operated for the emergency purpose set out in the application for designation as an authorized emergency vehicle and shall at all times be used in compliance with the statutes pertaining to emergency vehicles.

1-1205 IMPROPER USE OF VEHICLE. Whenever the Sheriff shall receive information that a vehicle that has been designated as an emergency vehicle has been or is being operated in violation of the statutes pertaining to emergency vehicles or these regulations, if it is the first such violation by the owner or operator of said vehicle reported to the Sheriff, he shall send a warning notice by certified mail, return receipt requested, advising the owner of the violations complained of and admonishing the owner that any further violation will result in cancellation of the designation of the vehicle as an authorized emergency vehicle. Upon receipt of information of a subsequent violation of the statutes pertaining to emergency vehicles or of these regulations by an operator of the designated vehicle or another designated vehicle owned by the same owner, the Sheriff shall notify the owner of said vehicle of the purported violations by certified mail, return receipt requested, and shall give the owner ten (10) days from the date of mailing of the notice in which to show good cause why the designation should not be cancelled. Upon receipt of the response the Sheriff shall review the same if the Sheriff deems the response to be inadequate, or if no response is received within ten (10) days of the mailing of the notice, the Sheriff shall enter an order canceling the designation of the vehicle as an authorized emergency vehicle. A copy of the order of cancellation shall be mailed to the owner by certified mail, return receipt requested.

1-1206 DEFINITION. The term "owner" as used herein shall include any public official operating or causing to be operated any designated emergency vehicle.

ARTICLE 13. CEREAL MALT BEVERAGES AND ALCOHOLIC BEVERAGES

1-1301 SUNDAY SALES FOR ON PREMISES CONSUMPTION. Pursuant to K.S.A. 41-2704(b)(2), Sunday sale of cereal malt beverage is hereby authorized in Douglas County, Kansas at any place of business licensed to sell cereal malt beverage for consumption on premises, which derives not less than 30% of its gross receipts from the sale of food for consumption on the licensed premises. (Res. 05-25, Sec. 1)

1-1302 SUNDAY SALES FOR OFF PREMISES CONSUMPTION. Pursuant to Section 9(a) of Senate Bill 298, 2005 Kansas Session Laws Chapter 201, the

Board hereby (i) expands permissible days of sale at retail of cereal malt beverage in the original package to allow such sale within the unincorporated area of Douglas County on any Sunday, except Easter, between the hours of 12 noon and 8 p.m.; and (ii) expands permissible days of sale at retail of alcoholic liquor in the original package, to the extent licensing of such sale of alcoholic liquor is otherwise authorized within the unincorporated area of Douglas County, to allow such sale within the unincorporated area of the Douglas County on any Sunday, except Easter, between the hours of 12 noon and 8 p.m. and on Memorial Day, Independence Day and Labor day. (Res. 06-10, Sec. 1)

- 1-1303 DEFINITIONS. The term cereal malt beverage used in Section 11302 shall have the same meaning as in the Kansas Cereal Malt Beverage Act; and the term “alcoholic liquor” used in Section 1-1302 shall have the same meaning as in the Kansas Liquor Control Act. (Res. 06-10, Sec. 2)

ARTICLE 14. ECO2 COMMISSION

- 1-1401 ESTABLISHMENT OF COMMISSION. The ECO2 Commission (pronounced “ECO Squared Commission”) is hereby established as a joint advisory commission to the City and the County. (Res. 04-22, Sec. 1)
- 1-1402 PURPOSE OF COMMISSION. The ECO2 Commission shall report to and advise both the City and the County on matters relating to its dual goals of (i) preservation, access, and management of open space, and (ii) acquisition of land, facilities and other supports to expand job opportunities in Douglas County, Kansas, including financing of both purposes. (Res. 04-22, Sec. 2)
- 1-1403 GUIDING PRINCIPLES. The ECO2 Commission shall be guided by the following three principles: (i) participation of landowners should be wholly voluntary and the ECO2 Commission shall not recommend the involuntary taking of private property; (ii) to the extent possible and in order to maximally leverage available funds, the ECO2 Commission shall emphasize partnerships with developers, land trusts, and other parties positioned to advance the dual goals of economic development and open space preservation; and (iii) the ECO2 Commission should not break the dual goals of economic development and open space preservation and pursue either separately. (Res. 04-22, Sec. 3)
- 1-1404 ADVISORY COMMISSION: ADDITIONAL DUTIES. The ECO2 Commission shall initially serve in an advisory capacity. The City, the County, and other incorporated cities within Douglas County may, by separate agreement

- between themselves, assign additional duties and responsibilities to the ECO2 Commission, including but not limited to preparing, approving and implementing the annual operating budget; managing acquired funding and real assets; hiring administrative staff; and entering into contracts in furtherance of the goals of the ECO2 Commission. (Res. 04-22, Sec. 4)
- 1-1405 NUMBER AND QUALIFICATIONS OF MEMBERS. The ECO2 Commission shall be comprised of eight members, each of whom shall reside within the geographic boundary of Douglas County, Kansas and none of whom shall hold either a salaried position or elective office with any City government in Douglas County or the County government; provided, however, that the initial appointments made to the ECO2 Commission in June of 2004 may include members who served on the ECO2 Initiative prior to adoption of the Joint Resolution that do not reside in Douglas County. Those members shall be exempt from the residency requirement until their initial term of appointment expires. Membership on the ECO2 Commission shall be voluntary and no member shall receive payment for service on the commission. (Res. 04-22, Sec. 5; Res. 05-14, Sec. 1)
- 1-1406 APPOINTMENTS. The Mayor of the City and the Chair of the County Commission shall jointly appoint the members to the ECO2 Commission upon recommendation of the ECO2 Commission. In each case, appointments shall be made with the consent of a majority of each respective body. The appointments shall consist of the following: three members representing economic development interests, three member representing open space interests, and two members representing farm advocacy interest. (Res. 04-22, Sec. 6)
- 1-1407 REGULAR TERMS: TERM LIMITS. ECO2 shall recommend to the City and County Commissions a staggered term structure that provides for both continuity and the periodic introduction of new members and ideas. (Res. 04-22, Sec. 7)
- 1-1408 INITIAL TERMS. ECO2 shall recommend to the City and County Commissions initial term lengths that set in motion the staggered term structure noted in Section 1-2207. (Res. 04-22, Sec. 8)
- 1-1409 INITIAL MEETING. The ECO2 Commission shall initially convene at such time and place as shall be fixed by the Chair of the County and the Mayor of the City and shall thereupon proceed to organize and elect a Chair and Vice-Chair and to fix and determine times and places of future meetings. (Res. 04-22, Sec. 9)

- 1-1410 **BYLAWS.** The ECO2 Commission shall prepare bylaws to govern the Commission's structure and decision making process and shall submit said bylaws to the City and County for joint approval. At a minimum, the bylaws shall require the same representative structure of the Commission's members as set forth in this Resolution and shall further require the affirmative vote of at least three-fourths of all then-current members appointed and serving on the Commission to recommend project funding or take other significant Commission-related action. Until such time that the bylaws are prepared and approved by the City and County, the Commission shall have a Chair who shall call and preside over all meeting of the Commission and a Vice-Chair who shall serve in the absence of the Chair. (Res. 04-22, Sec. 10)
- 1-1411 **OPEN MEETINGS AND OPEN RECORDS.** All meetings of the ECO2 Commission shall be held in compliance with the Kansas Open Meetings Act and its records shall be subject to the Kansas Open Records Act. (Res. 04-22, Sec. 11)
- 1-1412 **WITHDRAWAL BY CITY OR COUNTY.** Either the City or the County may withdraw its support of the ECO2 Commission and terminate the ECO2 Commission's role with respect to such body upon not less than thirty (30) days' notice to the other governmental body. (Res. 04-22, Sec. 12)
- 1-1413 **EVALUATION OF COMMISSION.** Both the County and City shall, approximately five years from the effective date of this Resolution, review whether the continued existence of the ECO2 Commission is necessary or desirable, and if so, whether any amendments should be made to this Resolution or to the responsibilities of the ECO2 Commission. If neither the County of the City takes formal action to terminate the continued existence of the ECO2 Commission or make any amendments to this Resolution or the ECO2 Commission's responsibilities, the ECO2 Commission shall continue according to the provisions of this Resolution. (Res. 04-22, Sec. 13)

ARTICLE 15. TOWING

- 1-1501 **TOWING/IMPOUNDING VEHICLES.**
- a) **Authority to Tow.** The Sheriff's Office and its members may cause any vehicle to be immediately towed under any of the following circumstances, without the prior consent or authorization of the owner or operator of the vehicle:
- 1) When a vehicle is unattended or abandoned upon a public road or public property and either is parked in a tow zone, interferes with

- the normal movement of traffic or public business, or otherwise poses a danger to the public health, safety or welfare; or
- 2) When a vehicle is unattended or abandoned upon a public road or public property for a period of 48 hours; or
 - 3) When a vehicle has been reported stolen or taken without the consent of its owner; or
 - 4) When the owner or operator of a vehicle is unable to provide for its custody or removal; or
 - 5) When a vehicle upon a public road or public property (or adjacent to a public road as a result of an accident) is so disabled or unsafe as a result of an accident or otherwise as to constitute an obstruction to traffic or otherwise poses a danger to the public health, safety or welfare, and the owner or operator of the vehicle is unable or refuses to provide for its custody or removal (the failure of the owner or operator to request a specific tow service provider that is willing and able to respond within the timeframe that the Sheriff's Office or its members determines necessary under the exigencies of the situation shall be deemed the refusal to provide for its removal); or
 - 6) When the person in charge of a vehicle has been arrested or otherwise taken into custody or detained for an alleged offense; or
 - 7) When a vehicle has been used in the commission of a crime or is otherwise subject to seizure as evidence in a criminal prosecution; or
 - 8) When a vehicle is subject to seizure or forfeiture under the laws of Kansas or the United States; or
 - 9) Any other reason authorized by applicable law.
- b) Authority to Impound. The Sheriff's Office and its members may cause any vehicle to be immediately impounded as they deem necessary within the normal course of business. Any vehicle so impounded for evidence shall be disposed of in accordance with any orders of a court having jurisdiction over the matter, or as otherwise allowed by law once the vehicle is no longer needed for evidentiary purposes. (Res. HR 12-9-2, Sec. 1)

1-1502 NOTICE TO OWNER OF TOWED VEHICLE. Whenever any vehicle is towed pursuant to the provisions of Section 1-1501 of this Article, as amended, the tow service provider shall comply with all notice provisions as outlined in

K.S.A. 8-1102 through 8-1104, and amendments thereto. (Res. HR 12-9-2, Sec. 1)

- 1-1503 RELEASE OF TOWED VEHICLE. Unless the vehicle is being held or seized as evidence, all vehicles towed pursuant to the provisions of this Article shall be released to the owner or authorized representative by the tow service provider upon satisfaction of the provisions as outlined in K.S.A. 8-1102 through 8-1108, and amendments thereto, except fees and charges shall not exceed those provided for in Section 1-1513 of this Article, as amended. Res. HR 12-9-2, Sec. 1)
- 1-1504 SALE OF VEHICLE. An authorized tow service provider may proceed to dispose of towed vehicles, or to foreclose any possessory lien created by operation of law, in the manner provided in K.S.A. 8-1102 through 8-1108, and amendments thereto, unless a hold has been requested for a particular vehicle by the Sheriff's Office or other law enforcement agency. (Res. HR 12-9-2, Sec. 1)
- 1-1505 CONTRACT TOWING. It is hereby declared and found by the Board of County Commissioners to be of vital importance to the safety of the traveling public for disabled or abandoned vehicles and vehicles found on public streets to be removed as promptly as possible; that delay in removal can impede the movement of traffic unnecessarily and can cause further accidents; that the solicitation of tows at accident scenes can lead to unnecessary traffic congestion and unsafe and chaotic conditions; and, as a result, that the towing of vehicles from public roads and public property is a matter affecting public safety. Consequently, vehicle tows should be subject to contracts with the County for the purpose of safeguarding the public.

It is further declared and found by the Board of County Commissioners that the practice of towing, removing and storing of vehicles are matters affecting public safety and require uniformity, efficiency, dependability, and consistency, and any person desiring to perform towing operations for the Sheriff's Office and other County officials shall enter into a Tow Service Provider Contract and comply with the provisions of this Article. The purpose of these Tow Service Provider Contracts and the provisions of this Article are to provide a uniform, efficient, dependable, and consistent system for obtaining services from tow companies which are engaged in or which intend to engage in the practice of towing, removing and storing of vehicles at the request of the Sheriff's Office and other County officials.

Any person desiring to perform tow services at the request of the Sheriff's Office or other County official and who meets the requirements of all other provisions of this Article and enters into a Tow Service Provider Contract shall be eligible to be placed on the County contract tow rotation list and be called on a rotation basis. (Res. HR 12-9-2, Sec. 1)

1-1506 TOWING SERVICE PROVIDER CONTRACT REQUIRED. Each tow service provider seeking placement on the County contract tow rotation list and designation as an authorized tow service provider to perform tow services at the request of the Sheriff's Office, the Emergency Communications Department, or other County official shall make written application to the County Administrator or his designee at least 30 days prior to the desired effective date and shall enter into a Tow Service Provider Contract with the County, in form and substance that the County Administrator approves. Each Tow Service Provider Contract shall generally be for a calendar year and renewal applications should be submitted at least 30 days prior to the expiration date of the then-current contract term. A tow service provider may terminate its designation as an authorized tow service provider, and therefore be removed from the County contract tow rotation list, by providing 5 calendar days advance written notice to the County Administrator. (Res. HR 12-9-2, Sec. 1)

1-1507 CONTRACT TOW REQUIREMENTS. The following requirements and criteria shall be met by any tow service provider desiring placement on the County contract tow rotation list and designation as an authorized tow service provider pursuant to a Tow Service Provider Contract:

- a) Exclusive of state recognized holidays, each authorized tow service provider shall have a representative available (by phone or at the premises where a towed vehicle is stored) from 8:00 a.m. to 5:30 p.m., Monday through Friday to release any towed vehicle within one hour of the owner's or authorized representative's request. No additional charge shall be assessed for releasing a vehicle during these days and hours. During all other times, the authorized tow service provider shall have a representative available by phone and able to meet the owner or authorized representative at the premises where the towed vehicle is stored or kept for releasing a vehicle. For a vehicle released during these other times, the authorized tow service provider may not assess a fee in excess of the maximum charges provided for in Section 1-1513 of this Article, as amended. Each authorized tow service provider shall conspicuously post a sign at the front of its business stating the business name and a telephone number where information can be obtained about

any vehicle towed or stored by the business. If an authorized tow service provider's phone number changes during the term of any Tow Service Provider Contract, the authorized tow service provider shall provide the County Administrator with the new number before the change becomes effective.

- b) Each authorized tow service provider shall have drivers and wrecker services available to respond to tow requests on a 24 hour per day, 7 days a week basis.
- c) Each authorized tow service provider shall clean-up accident debris including but not limited to dirt, broken glass, metal, and other car pieces associated with the vehicle being towed, including but not limited to the use of oil dry or a similar product to clean up any fluid spills, unless otherwise directed by an official overseeing or having jurisdiction of the accident.
- d) Each authorized tow service provider must have properly zoned adequate storage facilities within the County. Outside storage areas shall be fenced, with at least 6 foot high chain link or similar security fence and shall be adequately secured.
- e) Each authorized tow service provider must have available storage area which is totally enclosed within a building for the protection and security of vehicles with broken windows and valuable property left in vehicles.
- f) Each authorized tow service provider must agree to handle and tow abandoned vehicles in addition to tow requests received for damaged or disabled vehicles.
- g) Each authorized tow service provider must provide the County with proof of the following insurance protection:
 - 1) Public liability insurance indemnifying the public generally against damages arising out of the operation of the wrecker service. The authorized tow operator shall be responsible for entering the County on such policy or policies of insurance as a named insured. Such policy or policies of insurance shall be in an amount of at least \$500,000.00 for one person, \$500,000.00 for one accident, and \$500,000.00 property damage and a minimum aggregate limit of \$1,000,000.00. This coverage can be provided as a combined single limit.
 - 2) Garage keeper's minimum liability policy covering fire, theft or damage to or loss of property while in tow or otherwise in the care, custody and control of the authorized tow operator. Such policy or policies of insurance shall be in an amount of at least \$100,000.00

for each individual claim up to a maximum aggregate limit of \$200,000.00 per occurrence.

Proof of insurance must be furnished on standard Acord® certificate of insurance forms. The County is to be named as a named insured on all required insuring agreements and each certificate must state that the County will be given 10 days advanced written notice if the policy is canceled or changed.

- h) Each authorized tow service provider must enter into and sign a Tow Service Provider Contract with the County.
- i) Each authorized tow service provider must provide the County with proof that it has a valid certificate of public service issued from the Kansas Corporation commission. (Res. HR-12-9-2, Sec. 1)
- j) Each authorized tow service provider must be in compliance with all city, county, state, and federal laws. Any tow operator not in compliance with all city, county, state, and federal laws by the end of any given calendar year shall be required at that time to deliver to Douglas County such documentation evidencing progress toward compliance with any such incompliance.
- k) Each authorized tow service provider that is a legal entity formed by filing with the Kansas Secretary of State or any other state must be active and in good standing in the state of formation and, if a foreign entity, must be registered to do business in the State of Kansas.
- l) Each tow service provider entering into a Tow Service Provider Agreement and desiring to become an authorized tow service provider so as to be placed on the county tow rotation list must be separate and distinct from any other authorized tow service provider on the county tow rotation list, and cannot be affiliated with another authorized tow service provider having the effect of taking two slots on the county tow rotation list when, in fairness and reality, it should only take one slot. Evidence of separate and distinct tow operators includes, but is not limited to, separate certificate of public service from the Kansas Corporation Commission; separate insurance policies; separately owned equipment, such as trucks, dollies, etc.; separate offices or arm's length leases for share office space; separate storage facilities or arm's length leases for shared storage facilities; separate accounting records and income tax filings; financial independence, such that no authorized tow operator is dependent upon financing from another authorized tow service provider; and the ownership of each tow service provider, together with who benefits from operating profits and is burdened by operating losses, is substantially different. In the case of personnel, a stricter level of scrutiny will be used to determine if a tow operator is dependent upon

the personnel of another tow operator. To facilitate separation of operations within a sanctioned shared office space environment, clerical staff may be shared only in the event that separate phone numbers are maintained for each tow office and if written documentation exists representing the relationship between tow operators and shared personnel. In the event drivers or other non-clerical personnel are shared between tow operators, documentation evidencing the nature of the shared relationship may be requested. This documentation could be in the form of a contract or agreement and should include a description of the employee-employer relationship with details regarding how transitions from one tow operator employer to another transpire as well as how each company compensates the shared employee(s). Each tow operator desiring to become an authorized tow operator may be required to deliver to Douglas County such documentation as Douglas County reasonably requests to verify the independence of tow operators, including but not limited to motor vehicle titles and evidence of ownership of other equipment, lease agreements for use of office and storage space necessary to conduct towing operations, payroll information, and other documentation establishing that no tow operator is dependent upon the equipment or personnel of any other tow operator to provide its towing operations. Douglas County shall have the authority to suspend or revoke any Tow Service Provider Agreement if it determines that two or more authorized tow service providers are not separate and distinct from each other.

- m) The criteria and requirements set forth in this Subsection A through I of this Section shall not apply when the owner or operator of the vehicle to be towed requests services from a specific tow service provider and the vehicle is towed by that provider. (Res. HR 14-10-05, Sec. 1)

1-1508 COUNTY CONTRACT TOW ROTATION LIST. Based upon information provided by the County Administrator or his designee, the Emergency Communications Department shall maintain a list of authorized tow service providers to be used in providing rotation tow services for the County.

- a) When a tow is needed, the law enforcement officer will communicate the need for a tow to the dispatcher on duty. On receiving this communication, the dispatcher shall, as a general rule, call the next authorized tow service provider on the County contract tow rotation list to remove the vehicle and that authorized tow service provider shall then be moved to the bottom of the list. On each succeeding communication, the next tow service provider on the list is generally assigned. In the event an authorized tow service provider cannot be reached by the dispatcher or cannot provide the requested tow within the timeframe

required, that authorized tow service provider shall forfeit its turn, that authorized tow service provider shall be moved to the bottom of the list, and the dispatcher shall generally call the next succeeding authorized tow service provider on the list. If an authorized tow service provider at the top of the contract tow rotation list is dispatched and the dispatch does not result in a vehicle tow due to no fault of the authorized tow service provider, such authorized tow service provider shall be moved back to the top of the list. The dispatcher shall keep a continuous rotation of each authorized tow service provider on the master County contract tow rotation list.

- b) The County contract tow rotation list provided for in this Article may be used for tows that are initiated by law enforcement officers or other officials of other jurisdictions within the County if the governing body of that jurisdiction specifically requests the Emergency Communications Department to use such list for its tows, in which case, the provisions of this Article and the Tow Service Provider Contract shall apply to such tows.
- c) Placement on the County contract tow rotation list shall be by alphabetical order. In the event a new tow service provider becomes authorized, it shall be placed on the list in alphabetical order, regardless of its resulting place in the rotation.

The Sheriff's Office and other County officials shall not be obligated to use the County contract tow rotation list for any of the following:

- 1) special events where one or more tows may be necessary;
- 2) tows involving impounding of a vehicle for evidentiary or other criminal investigation or law enforcement purposes; or
- 3) tows involving County owned vehicles. Instead, the County may enter into an agreement with one or more tow service providers as needed for any such purposes. For purposes of this Section, special events shall include, but not be limited to, concerts, festivals, sobriety checkpoints, or any other similar event. (Res. HR 12-9-2, Sec. 1)

1-1509 **MAXIMUM FEES AND CHARGES.** No authorized tow service provider towing a vehicle pursuant to the County contract tow rotation list, and no any towing company towing a vehicle, without the prior consent or authorization of the owner or operator of the vehicle shall charge any towing, storage, or related fees in addition to or in excess of those provided for in Section 1-1513 of this Article, as amended. The County shall not be responsible for unpaid

towing charges for such contract tows except as agreed to in writing by a County official. (Res. HR 12-9-2, Sec. 1)

1-1510 SUSPENSION OR REVOCATION OF APPROVAL AND AUTHORIZATION;
GROUNDS.

- a) Suspension or Revocation. The County Administrator or his designee may order that the approval and authority of an authorized tow service provider be suspended or revoked. Any such suspension shall temporarily remove the tow service provider from the contract tow rotation list and may be effective a maximum of 60 calendar days after any noted deficiency is corrected, with the period of suspension to be determined by the County Administrator or his designee. Any such revocation shall permanently remove the tow service provider from the contract tow rotation list and shall terminate the Tow Service Provider Contract with the tow service provider. A revoked tow service provider may be reinstated after entering into a new Tow Service Provider Contract but only upon terms and conditions that lead the County Administrator or his designee to conclude that whatever problems or deficiencies had existed are permanently remedied. Such suspension or revocation may be based upon good cause, including but not limited to any one or more of the following:
- 1) The tow service provider obtained its authority as an authorized tow service provider by fraudulent conduct or false statements;
 - 2) The tow service provider has failed to comply with the provisions of this Article;
 - 3) The tow service provider violated the fee and charge schedule by overcharge;
 - 4) The tow service provider has consistently refused to respond to requests for services from the Emergency Communications Department or the Sheriff's Office or has consistently failed to answer telephone calls from them at the telephone number supplied by the tow service provider;
 - 5) The tow service provider has responded to the scene of an accident, emergency, or impoundment situation, when not specifically called to do so, and solicited wrecker or towing business; and
 - 6) The County is not satisfied with the general services of the owner and/or employees of the tow service provider or with the cooperation it has received from such tow service provider or other justifiable cause.

- b) Appeal: Such suspension or revocation shall be by written notice to the tow service provider and shall contain the reasons for the suspension or revocation. The tow service provider may appeal such decision to the Board of County Commissioners or its designee by filing notice with the County Administrator within 10 calendar days of the notice of suspension or revocation. The Board of County Commissioners or its designee shall have the power to reverse, alter, modify, uphold or increase any suspension or revocation.
- c) No Vested Rights: Nothing in this Article, the County's designation as an authorized tow service provider, the County's entering into a Tow Service Provider Contract with any tow service provider, or the County's utilization of any tow service provider for tows shall confer any vested property rights upon the tow service provider to continue as an authorized tow service provider, to remain on the County contract tow rotation list, or to tow any vehicle for the County. (Res. HR 12-9-2, Sec. 1)

1-1511 SOLICITATION PROHIBITED. No tow service provider or tow service provider's employee, driver or contractor shall stop, stand or park a tow truck at or near the scene of an accident or at or near a disabled vehicle within the unincorporated areas of the County for the purpose of soliciting an agreement for towing services, unless such tow service provider, employee, driver or contractor has been called to the scene by the Emergency Communications Department, the Sheriff's Office, another law enforcement agency, or by the owner or authorized representative of an involved vehicle. (Res. HR 12-9-2, Sec. 1)

1-1512 ACCESS TO PERSONAL PROPERTY. Any owner or authorized representative of a vehicle towed pursuant to this Article shall have access to personal property that is not affixed to such vehicle for up to 96 hours after such vehicle has been towed, and such personal property shall be released to said owner or authorized representative within one hour of the owner or authorized representative's request; except, however, if it is being held or seized as evidence. By becoming an authorized tow service provider and being placed on the County contract tow rotation list, each authorized tow service provider waives any possessory lien, to the extent it even has one, in any such personal property. The authorized tow service provider shall not charge any additional fee for retrieval of personal property during the hours and days specified in Section 1-1507 of this Article, as amended. For personal property released during other times, the authorized tow service provider may not assess a charge in excess of the maximum fee provided for in Section 1-1513 of this Article, as amended. (Res. HR 12-9-2, Sec. 1)

1-1513 MAXIMUM TOW, STORAGE, AND RELATED FEES.

- a) Charges for towing, storage and other related services in connection with any vehicle towed or impounded pursuant to the County contract tow rotation list or otherwise towed without the prior consent or authorization of the owner or operator of the vehicle shall not exceed the maximum fees and charges that the Board of County Commissioners adopts by resolution, as amended and in effect from time to time. These charges are the sole and exclusive charges that may be legally imposed for such towing, storage and other related services and it shall be unlawful to charge fees in addition to or in excess of such maximum fees and charges. All other charges not identified in this Article or by resolution are expressly prohibited, including, without limitation, fuel surcharges, gate fees or other similar unauthorized fees to retrieve vehicles or remove personal property.
- b) These fees include clean-up of all accident debris, including but not limited to the use of oil dry or a similar product to clean up any fluid spills.
- c) A tow service provider or other tow operator may charge a full day's storage fee for any portion of a day the vehicle is stored; provided, however, that no fee shall be charged if the owner or authorized representative retrieves the vehicle within the first 24 hours; provided further that no fee shall be charged for any additional day if a vehicle is stored for the additional day as a result of the tow service provider's or tow operator's failure to release the vehicle to the owner or authorized representative as required of authorized tow service providers in this Article. (Res. HR 12-9-2, Sec. 1)

1-1514 SEVERABILITY. If any provision of this Article or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are severable. (Res. HR 12-9-2, Sec. 1)

1-1515 PENALTY.

- a) Anyone who directly or indirectly violates any provision of this Article shall be guilty of a misdemeanor fined not less than \$100 nor more than \$500, or by up to one month imprisonment in jail, or both such fine and imprisonment.
- b) Any penalty imposed by this provision shall be in addition to any other remedy at law or equity available to the County, including but not limited

to damages for any failure to comply with the provisions of a Tow
Service Provider Contract.(Res. HR 12-9-2, Sec. 1)

CHAPTER 2. ANIMAL CONTROL

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ARTICLE 1. DEFINITIONS

- 2-101 As used in this Chapter, unless the context clearly indicates otherwise, the following words and terms shall have the following meanings:
- a) *Administrative Hearing Officer* means a hearing officer appointed by the Douglas County Board of Commissioners to hear and adjudicate violations of this Chapter through a finding and order.
 - b) *Animal* means any live vertebrate creature except a human.
 - c) *Animal Shelter* means the facility or facilities contracted with or operated by Douglas County for the purpose of impounding or caring for animals held under the authority of this chapter or state law.
 - d) *Bite injury* means any contact between an animal's mouth and teeth and the skin of a bite victim which causes visible trauma, such as a puncture wound, laceration, abrasion, bruise or other piercing of the skin.
 - e) *Cat* means any member of the species, *felis domesticus*.
 - f) *Commercial Kennel* means any agricultural or residential parcel where four or more dogs or cats, or both, are maintained overnight in any one week for boarding, training or similar purposes for a fee or compensation, or where dogs or cats are produced for sale or sold, as determined by an Enforcement Officer.
 - g) *Dangerous Dog* means any dog which has:
 - 1) Caused a bite injury, other than severe injury, to any person, or
 - 2) Killed another dog or cat, or
 - 3) Caused severe injury to, or killed, equine, or livestock.

- h) *Dog* means any members of the species, *canis familiaris*.
- i) *Enforcement Officer* means a law enforcement officer, deputy, or humane investigator, with jurisdiction to enforce this Chapter in Douglas County, KS.
- j) *Euthanasia* means the humane destruction of an animal that may be accomplished by any of those methods authorized by K.S.A. 47-1718.
- k) *Equine* means a horse, pony, mule, jenny, or donkey.
- l) *Exotic* animal means any non-human primate or prosimian (chimpanzees, monkeys), any venomous snake, or constricting snake fully grown over eight feet in length, any member of the *canidae*, *felidae*, *ursidae*, *macropodidae* or *proboscidae* families, including hybrids thereof, and which include:
 - 1) Any member of the dog (*canid*) family not customarily domesticated by man, or any hybrids thereof, including wolf hybrids which are a cross between a wolf and a domestic dog, but not including domestic dogs (*Canis familiaris*);
 - 2) Any member of the cat family weighing over fifteen (15) pounds not customarily domesticated by man, or any hybrids thereof, but not including domestic cats (*Felis catus*);
 - 3) Any member of the bear (*ursidae*) family, or any hybrids thereof; and
 - 4) Any member of the elephant (*proboscidae*) family, or any hybrids thereof.
- m) *Fowl* means domestic birds commonly kept for the production of meat, eggs, companionship, aesthetic, or feathers. Fowl shall include, but not be limited to, chickens, ducks, turkeys, geese, swans, peafowl, guinea fowl, ostriches, and emus.
- n) *Health director or director of health* means the director of the Lawrence-Douglas County Health Department. The term includes the director's authorized representative.
- o) *Livestock* means cattle, sheep, goats, pigs, llamas and alpacas. Livestock excludes fowl and equine.
- p) *Owner* means any person having a right of property in an animal, or who keeps or harbors an animal, or who has it in his care or residence, or acts as its custodian. A parent or legal guardian shall be deemed to be an owner of animals owned or maintained by minors upon their premises.

- q) *Person* means any individual, corporation, partnership, organization, or institution commonly recognized by law as a unit.
- r) *Severe Injury* means disfigurement, protracted impairment of health, or impairment of the function of any bodily organ.
- s) *Vicious* animal means any animal which has caused severe injury to any person. (Res. No. 21-50, Sec. 1)

ARTICLE 2. ENFORCEMENT, IMPOUNDMENT AND KENNELS

- 2-201 Any animal found by an Enforcement Officer to be in violation of this Chapter may be impounded by an Enforcement Officer and placed in the Animal
- 2-202 All costs and fees associated with impounding, boarding, and medical care of an animal pursuant to this Chapter shall be paid to the Animal Shelter before the animal is released to the owner. Notwithstanding required hold times in other sections of this Chapter, if a known owner has not reclaimed their animal within 24 hours of notification, the Animal Shelter may send written notice to the known owner to immediately retrieve the animal from the shelter. If, 10 days after notice being provided, the animal is not retrieved, the animal shall become the property of the Animal Shelter. In the event that the owner of such animal fails to pay such costs and fees, the County or Animal Shelter shall be entitled to seek reimbursement of costs either in an independent civil proceeding or the costs may be requested as restitution as part of any applicable criminal proceeding.
- 2-203 The Douglas County Commission shall provide an Animal Shelter or shelters for the reception and humane care of animals impounded under this Chapter, and for this purpose may contract with any governmental entity, nonprofit organization, or association, or licensed veterinarian upon such terms and conditions as are mutually deemed appropriate.
- 2-204 Interference with Enforcement Officers Prohibited. It shall be unlawful for any person to knowingly obstruct, resist, or oppose an Enforcement Officer in the process or execution or the attempt to serve any summons, citation, writ, warrant, or order; conceal, destroy or materially alter evidence; or otherwise interfere with any person appointed or given authority under this Chapter in the performance of his or her official duties as prescribed herein. It shall be unlawful for any person to refuse to identify himself or herself by correct name and address when asked to do so by an Enforcement Officer when the officer has reasonable suspicion to believe that such person has violated this Chapter.

- 2-205 Refusal to Deliver Animals Prohibited. It is unlawful for a person to refuse to deliver an animal to an Enforcement Officer or to the Animal Shelter when requested to do so under impoundment provisions of this Chapter.
- 2-206 Removal of Animals from Enforcement Officers or Animal Shelter Prohibited. It is unlawful to remove an animal from the custody of an Enforcement Officer, Animal Shelter, or other location at which an animal is located when such animal has been impounded by such officer under the provisions of Chapter or state law when such removal is unauthorized.
- 2-207 No Limitation in Rabies Cases. The provisions of this Chapter shall not reduce or otherwise limit any applicable law that requires the impounding or holding of animals for observation following exposure by an animal that could possibly carry rabies or other communicable diseases. In addition, nothing in this Chapter shall prohibit the humane destruction of an animal suspected of carrying rabies if such destruction is done in compliance with other applicable law. In the event that an animal would otherwise be impounded under this Section, but is held at a different location for observation, the animal shall be impounded under this Section immediately upon expiration of the observation period.
- 2-208 Impoundment of At-Large Animals.
- a) A dog, cat or other animal found to be turned loose by an owner or at-large by an Enforcement Officer or person, within the boundaries or unincorporated area of Douglas County, may be impounded in the Animal Shelter.
 - b) The Animal Shelter shall make a record of all dogs, cats, or other animals so impounded with their description, date of impoundment and rabies vaccination number. The animal shall be listed and viewable for the public to inspect.
 - c) If the animal is microchipped or if the owner is known or reasonably ascertainable, the Animal Shelter shall provide notice of impoundment to the known owner. Providing notice does not extend the time in which the animal shall be held before release or disposition.
 - d) If the animal appears to be at-large with no owner and within 3 business days from the date any animal is impounded the owner of such animal does not claim his or her animal, the animal shall become the property of the Animal Shelter. (Ref. K.S.A. §47-1710)

- e) The owner or custodian of an animal disposed of pursuant to this Section shall not be entitled to recover damages for the disposition of such animal.
- 2-209 Any animal impounded pursuant to this Chapter, excluding Sec. 2-407 (Vicious Animal), may be released while the matter is pending in District Court or administrative hearing process upon the recommendation of an Enforcement Officer. If, in the opinion of an Enforcement Officer or Animal Shelter, the animal would constitute a menace to the health, safety or welfare of the public if released from custody, or may be subject to additional harm or violations, the animal may be held pending adjudication of the matter.
- 2-210 Enforcement. Enforcement Officers are empowered to enforce this Chapter and work with Code Enforcement to enforce any domestic animal-related inspections, conditional use permits, and site visits to aid in enforcement of other Chapters of the Douglas County Code, and abate any nuisances. It is unlawful to knowingly impede the duties of an Enforcement Officer.
- 2-211 Commercial Kennel.
- a) Noise. No person shall maintain any commercial kennel which, by creating a noise for frequent or prolonged periods of time by day or night, disturbs the peace and quiet of any person or family of ordinary sensitivity within the vicinity of the noise.
 - b) Odor. It shall be unlawful to maintain any commercial kennel which by the nature of its maintenance or by the numbers of the same shall create an offensive odor so as to be objectionable to any person of ordinary sensitivity living within the vicinity of the odor.
 - c) It shall be unlawful for any person to maintain a commercial kennel without first obtaining a conditional use permit from Douglas County Board of Commissioners.
 - d) It shall be unlawful for any person to maintain a commercial kennel without first obtaining a conditional use permit from Douglas County Board of Commissioners.
 - 1) Any pens, runs, cages or kennels shall be located at least 500 feet from any property lines.
 - 2) A minimum of 20 acres is required for a kennel.
 - 3) Adequate water supply must be provided for drinking and cleaning and appropriate sewage and waste management measures, approved by the Health Department, must be followed to eliminate odor.

- 4) The site plan must show contours so appropriate drainage of cleaning water and storm water runoff can be determined.
- 5) Shelters must be provided with heating and cooling units to protect the animals from extreme temperatures.
- 6) An exercise area such as an individual dog run or an exercise yard which may also be used for training and obedience classes must be provided.
- 7) Runs shall be adequately fenced and roofed to contain animals.
- 8) The building design, site layout, and/or other features must result in a facility that does not create noise which negatively impacts nearby properties.
- 9) There must be an occupied residential home on the property of the commercial kennel and the occupant's name and telephone number must be listed on the permit application and subsequent renewals. (ref. 12-306-23, and 12-306-23.01)

2-212 Penalties. Any person violating any of the provisions of this Article shall be issued a notice of violation and fine, and notice of hearing which shall be served not less than 10 days prior to the date of such hearing in front of the Administrative Hearing Officer. The Administrative Hearing Officer, upon finding and order, and after examining the record for any prior conviction, finding, order, or record to determine if the person has previously been found in violation of the same offense, may fine the person according to the following schedule:

- a) First violation, fine of \$100.
- b) Second or subsequent violation, fine of \$200 to \$500.

(Ref. K.S.A. §77-501 through 77-566, et. seq.)

(Res. No. 21-50, Sec. 1)

ARTICLE 3. EXOTIC ANIMALS

2-301 It is unlawful to own or possess an Exotic Animal in Douglas County, Kansas.

2-302 Exclusion, Zoos, and Other Facilities - The provisions of this Section shall not apply to properly maintained zoological parks accredited by the Association of Zoos and Aquariums; licensed or accredited medical institutions; accredited educational institutions; veterinary clinics or humane societies in possession of exotic animals for impoundment, treatment, or rehabilitation purposes; or

wildlife rescue facilities as designated by the Kansas Department of Wildlife and Parks.

2-303 Exclusion, Transitional Transporting - The provisions of this Section shall not apply to persons transporting exotic animals through Douglas County, provided that the transit time through Douglas County shall not be more than 6 hours, during which time, no exotic animal may be sold, exchanged, adopted, displayed, and no event or service that involves the exotic animal may occur. This includes any contact, whether direct or indirect, with the public.

2-304 Penalties. Any person violating any of the provisions of this Article shall immediately remove the animal from Douglas County. Any person violating any of the provisions of this Article shall be issued a notice of violation and fine, and notice of hearing which shall be served not less than 10 days prior to the date of such hearing in front of the Administrative Hearing Officer. The Administrative Hearing Officer, upon finding and order, and after examining the record for any prior conviction, finding, order, or record to determine if the person has previously been found in violation of the same offense, may fine the person according to the following schedule:

- a) First violation, fine of \$100.
- b) Second or subsequent violation, fine of \$200 to \$500.

(Ref. K.S.A. §77-501 through 77-566, et. seq.)
(Res. No. 21-50, Sec. 1)

ARTICLE 4. NUISANCE, DANGEROUS, AND VICIOUS ANIMALS

2-401 Property.

- a) It shall be unlawful for any person owning or possessing an animal to permit or allow such animal to go upon any road, trail, private lands or premises without the permission of the owner of such premises, and tear up, destroy, or damage the property therein. This is including, but not limited to, gardens, flowerbeds, agriculture, and outbuildings.
- b) It shall be unlawful to own, keep, harbor, or possess any dog or cat on a premises not occupied by persons as determined by an Enforcement Officer.
- c) It shall be unlawful to own or possess dogs or cats which, by creating a noise for frequent or prolonged periods of time by day or night, disturbs

the peace and quiet of any person or family of ordinary sensitivity within the vicinity of the noise.

- d) It shall be unlawful to own or possess dogs or cats which, by the nature of their maintenance or by the numbers of the same shall create an offensive odor so as to be objectionable to any person of ordinary sensitivity living within the vicinity of the odor.

2-402 Running at large—Prohibited; exceptions.

- a) It shall be unlawful for any person to own, keep or harbor any dog and to permit or allow the dog to run at large within the county. For the purpose of this section, any dog shall be deemed to have been permitted or allowed by its owner to run at large when a complaint is filed that alleges the animal is found outside the real property lines of the owner and not effectively under the control of its owner.
- b) Official use of dogs by any governmental unit shall be deemed in compliance with subsection (a) of this section.
- c) An owner, while participating in or training for obedience classes or trials, shall be deemed to be in compliance with subsection (a) of this section. Evidence of this shall be shown by the fact that the dog and owner are going through standard obedience exercises, the owner has a leash on the owner's person, and the dog is under immediate control. The dog's tags must be readily available on the owner's person.

2-403 Animal Injury.

- a) It shall be unlawful for any person to own, keep, or harbor an animal that, without provocation, causes injury to another domestic dog or owned cat, equine, or livestock, excluding severe injury or death as covered in Sec. 2-407 "Dangerous Dog," regardless of the purpose for which the livestock is owned. This section shall not apply to animals injured while willfully trespassing on the owner, keeper, or harbinger of the offending animal's premises.
- b) It shall be unlawful for any person to own, keep, or harbor an animal that, without provocation, causes death to any owned fowl. This section shall not apply to fowl found off the premises of the owner of the fowl.

2-404 Animals putting person in fear. No person shall own, keep or harbor any animal that without provocation, interferes with, chases, bites, or jumps upon any persons or animal, or behaves in a way that a reasonable person would find threatening, on a public right of way or off the property of the owner, keeper, or harbinger of the offending animal.

2-405 Nuisance Animals, Same—Declaration.

- a) Upon the Administrative Hearing Officer's finding and order for a third time involving the same animal in any 24-month period of subsections 401, 402, or 403 in any combination thereof, or first finding and order of violating of section 404 shall constitute a "Nuisance Animal." The Douglas County Clerk's Office shall create and maintain a list of Nuisance Animals upon final disposition of a Nuisance Animal declaration by the Administrative Hearing Officer.
- b) No animal may be declared a nuisance if, at the time of violations the person or animal was teasing, tormenting, abusing or assaulting the alleged Nuisance Animal. No animal may be declared a nuisance if the animal was protecting or defending a human being or animal within the immediate vicinity of the animal from what a reasonable person would perceive as an unjustified attack or assault.
- c) No person owning, harboring or having the care or custody of a Nuisance Animal shall suffer or permit such animal to go unconfined beyond the premises of such person unless such dog is securely leashed and muzzled or otherwise securely restrained.
- d) A Nuisance Animal is "unconfined" if while on the premises of its owner such animal is not securely confined indoors or confined in a securely enclosed and locked pen upon the premises of the person. Such pen must be adequate to ensure the confinement of such dog upon the premises.
- e) The owner of a Nuisance Animal shall attend and complete a training class approved by the Enforcement Officer that is designated to teach the owner how to manage or correct problem behavior. The class must be completed and receipt thereof sent to the Douglas County Clerk's Office within 60 days following finding and order of the triggering offense and Nuisance Animal declaration.
- f) Failure to keep a Nuisance Animal according to the above requirements shall be a separate violation of this Article.
- g) Upon the owner's request, the County may remove any animal from the list of Nuisance Animals if there are no additional instances of the behavior described in this Section within 24 months of the date of conviction and designation of a Nuisance Animal, and the owner has complied with all keeping restrictions outlined in this subsection without incident. Request shall be made to the County Clerk in writing and forwarded to the Administrative Hearing Officer for determination.

2-406 Dangerous Dogs.

- a) It shall be a violation of this section to own, keep, or harbor a Dangerous Dog. The Douglas County Clerk's Office shall create and maintain a list of Dangerous Dogs upon final disposition of a Dangerous Dog violation by the Administrative Hearing Officer.
- b) Notwithstanding the definition of a Dangerous Dog, no dog may be declared dangerous if any injury or damage is sustained by a person or animal who, at the time such injury or damage was sustained, was:
 - 1) Trespassing on the real property of the owner or keeper of the animal, or;
 - 2) A member of the household, or;
 - 3) Was teasing, tormenting, abusing or assaulting the dog or was committing or attempting to commit a crime, or;
 - 4) If the dog was protecting or defending a human being or animal within the immediate vicinity of the animal from what a reasonable person would perceive as an unjustified attack or assault.
 - 5) The provisions of this article shall not apply to a police dog being used to assist one or more Law Enforcement Officers acting in an official capacity.
- c) Notwithstanding the definition of a Dangerous Dog, no dog may be declared dangerous based solely on size or breed, or mix of breed; or if death to a dog or cat occurred solely due to a size disparity between the animals and there was no sustained vicious attack on the dog or cat.
- d) Any dog impounded under probable cause of being a Dangerous Dog and which in the judgment of the Enforcement Officer would constitute a menace to the health, safety or welfare of the public if released from custody, may be held pending the hearing of the violation of 2-406(a). If not so determined, the dog may, after having been held pursuant to K.A.R. 28-1-13, be returned to its owner until final determination is made by the Administrative Hearing Officer as to whether a violation of this section has occurred. If returned pending the final disposition of the case, the dog must be kept securely confined and must be muzzled while in public until final determination is made as to whether a violation of this section occurred.
- e) Within the notice of violation in 2-407, the Enforcement Officer shall include the following:
 - 1) A description of the animal; and,
 - 2) The name and address of the owner, keeper or harborer of the animal, if known; and,

- 3) The facts upon which the violation is based; and,
 - 4) The restrictions placed on the animal as a result of the violation pending the outcome of the hearing.
- f) Any violation of this section shall be punishable pursuant to the provisions of 2-407.
- g) Upon finding and order of owning, keeping, or harboring a Dangerous Dog, and the dog returning to its owner, the dog shall be kept subject to the following standards:
- 1) Leash and Muzzle. No person shall permit a Dangerous Dog to go outside its home, kennel, or pen unless such dog is securely leashed with a leash no longer than four feet in length. No person shall permit a Dangerous Dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. Such dogs may not be leashed to inanimate object such as trees, posts, or buildings. In addition, all Dangerous Dogs on a leash outside the dog's home or kennel must be muzzled by a muzzling device sufficient to prevent such animal from biting persons or other animals.
 - 2) Confinement. All Dangerous Dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel when not indoors, except when leashed and muzzled as above provided. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine Dangerous Dogs must be locked with a key or other locking mechanism. Such structure must have a secure bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than two feet. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition, and must not be the primary enclosure for keeping of the animal. Enforcement Officers shall have the authority to monitor and inspect the keeping of all Dangerous Dogs.
 - 3) Confinement Indoors. No Dangerous Dog may be kept on a porch, patio or in a part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such dog may be kept in a house or structure when screen doors are the only obstacle preventing the dog from exiting the structure.
 - 4) Signs. All owners of Dangerous Dogs within the county shall within 10 days of conviction, display in a prominent place on their premises a sign easily readable by the public, invitees, or

licensees, using the words Beware of Dog or Beware of Dangerous Dog.

- 5) Insurance. All owners of Dangerous Dogs must within 10 days of conviction provide to the Douglas County Clerk proof of liability insurance in a single incident amount of no less than \$200,000 for bodily injury to or death of any person or persons or for damage to property owned by any persons which may result from the ownership, keeping or maintenance of such dog. The insurance policy will provide that no cancellation of the policy will be made unless 10 days written notice is first given to the Douglas County Clerk's Office.
- 6) Identification Photographs. All owners of Dangerous Dogs must within 10 days of conviction provide to the Douglas County Clerk's Office two color photographs of the registered animal clearly showing the color and approximate size of the dog.
- 7) Microchip. All owners of Dangerous Dogs must within 10 days of conviction microchip the animal if not already microchipped and provide microchip information to the Douglas County Clerk's Office to register the animal as dangerous.
- 8) Spaying/Neutering. All owners of Dangerous Dogs must within 10 days of conviction spay or neuter the animal and provide proof of sterilization to the Douglas County Clerk's Office.
- 9) Training Class. The owner of the Dangerous Dog shall attend and complete a training class approved by the Enforcement Officer that is designated to teach the owner how to manage or correct problem behavior. The class must be completed and receipt thereof sent to the Douglas County Clerk's Office within 90 days following conviction.
- 10) Sale or Transfer of Ownership Prohibited. Sale - No person shall sell, barter or in any other way dispose of a Dangerous Dog to any person within the county unless the recipient person resides permanently in the same household and on the same premises as the registered owner of such dog; provided that the registered owner of a Dangerous Dog may sell or otherwise dispose of a registered dog or the offspring or such dog to persons who do not reside within the county. If the owner sells or transfers ownership outside of Douglas County, the owner shall notify the Douglas County Clerk's Office of the name and address of the transferee. The Douglas County Clerk's Office shall report the Dangerous Dog designation to the County in which the animal will be kept.

- 11) Removal from List. Upon the owner's written request, and approval by the Administrative Hearing Officer, the County may remove any dog from the list of Dangerous Dogs if there are no additional instances of the behavior described in this Section within 24 months of the date of conviction and designation of a Dangerous Dog and the owner has complied with all keeping standards outlined in this subsection.
- 12) Failure to Comply. It shall be unlawful for the owner of a dog deemed by the County to be a Dangerous Dog to fail to comply with the keeping standards and conditions set forth in this Section. Any dog previously found to be dangerous and which is found to be the subject of a violation of this Section shall be subject to immediate seizure and impoundment. Failure to comply with the provisions of this Section is deemed a separate offense. Upon finding and order, the Administrative Hearing Officer shall order the immediate removal of the animal from the county, may order the animal humanely euthanized, or may order the surrender of the animal to the Animal Shelter for disposition.

2-407 Penalties. Any person violating any of the provisions of this Article shall be issued a notice of violation and fine, and notice of hearing which shall be served not less than 10 days prior to the date of such hearing in front of the Administrative Hearing Officer. The Administrative Hearing Officer, upon finding and order, and after examining the record for any prior conviction, finding, order, or record to determine if the person has previously been found in violation of the same offense, may fine the person according to the following schedule:

- a) First violation of 2-401 and 2-402, fine of \$100.
- b) Second or subsequent violation of 2-401 and 2-402, fine of \$200 to \$500.
- c) First violation of 2-403, 2-404, 4-405, or 2-406, fine of \$200 to \$500.
- d) Second or subsequent violation of 2-403, 2-404, 4-405, or 2-406, fine of \$500 to \$1,000.
- e) Restitution. The Administrative Hearing Officer shall order reasonable restitution allowable by law in connection with any violation of this Article.
- f) Other Remedies. The County shall have such other remedies as are and as may be from time to time provided by other applicable law.

2-408 Bites; Confinement.

- a) **Dogs, Cats, or Ferrets Exposing Humans.** Any dog, cat, or ferret that causes any penetration of the skin by the teeth or any contamination of mucous membranes or fresh, open cuts in a person's skin with saliva shall be confined according to the following schedule, regardless of vaccination history:
- 1) **Owned or Wanted Dog, Cat, or Ferret.** Beginning on the day of the exposure, any owned or wanted dog, cat, or ferret shall be observed for ten (10) days pursuant to a Confinement Order prepared by an Enforcement Officer. The Confinement Order shall detail the facts of the incident including how the human was potentially exposed to rabies. If the incident did not cause severe injury and the owner has proof of current rabies vaccination, the Enforcement Officer, in his or her discretion, may determine that the animal may be confined at the residence of the owner. Any other confinement shall be done at the Animal Shelter or veterinary clinic. The exact period of confinement may be longer than ten (10) days at the discretion of the observing veterinarian. The owner shall be liable for all costs and fees incurred.
 - 2) **Unowned, Stray, or Unwanted Dog, Cat, or Ferret.** Any healthy unowned, unwanted, or stray dog, cat, or ferret shall be confined in the Animal Shelter for ten (10) days for observation. If the severity of the exposure to a person is such that it creates a high risk of potential rabies exposure, the Animal Shelter shall have the authority to waive any holding period and euthanize immediately for urgent testing.
- b) **Dogs, Cats, or Ferrets Exposed By Other Animals.** Any dog, cat, or ferret that has been exposed to rabies through any penetration of the skin by the teeth or any contamination of mucous, open cuts in the animal's skin with saliva by a bat or a wild terrestrial carnivore, as defined in the most current version of the Kansas Department of Health and Environment Investigation Guidelines, shall be reported to an Enforcement Officer. The Enforcement Officer will issue an Observation Order or Confinement Order according to the following schedule:
- 1) **Dogs, cats, and ferrets that have appropriate documentation of current rabies vaccination shall receive an immediate booster vaccination by a licensed veterinarian within 96 hours of exposure and shall be kept under the owner's control and observed for forty-five (45) days by an Observation Order. The Observation Order shall detail the facts of the exposure and the date and certification number of the current rabies vaccination. If the booster vaccination was given later than 96 hours after exposure, the Lawrence-**

Douglas County Health Department has the authority to extend the observation period and instruct the Enforcement Officer to issue the appropriate order.

- 2) Dogs and cats that are overdue for the rabies vaccination and have appropriate documentation of a previous vaccination shall receive an immediate booster vaccination by a licensed veterinarian within 96 hours of exposure and shall be kept under the owner's control and observed for forty-five (45) days by an Observation Order. If the booster vaccination was given later than 96 hours after exposure, the Lawrence-Douglas County Health Department has the authority to extend the observation period and instruct the Enforcement Officer to issue the appropriate order.
 - 3) Dogs and cats that are overdue for the rabies vaccination and have no documentation of a previous vaccination shall be reported to the Lawrence-Douglas County Health Department and may be required to be observed for forty-five (45) days or confined for up to four months. The Lawrence-Douglas County Health Department shall instruct an Enforcement Officer to issue the appropriate order.
 - 4) Ferrets that are overdue for the rabies vaccination shall be evaluated on a case-by-case basis by the Lawrence-Douglas County Health Department who shall then instruct an Enforcement Officer to issue the appropriate order.
 - 5) Dogs, cats, and ferrets that have never been vaccinated against rabies shall be euthanized immediately or, if the owner is unwilling to euthanize, shall receive an immediate booster vaccination by a licensed veterinarian within 96 hours of exposure. The dog or cat shall be confined at a licensed Animal Shelter or veterinary clinic for four (4) months, or six (6) months for ferrets pursuant to a Confinement Order prepared by an Enforcement Officer. If the booster vaccination was given later than 96 hours after exposure, the confinement period shall extend to six (6) months pursuant to a Confinement Order prepared by an Enforcement Officer. The owner shall be liable for all costs and fees incurred.
- c) Any owner who fails to comply with the provisions of this Section, within twenty-four (24) hours or one (1) business day of notification, shall be deemed in violation of this Article and the officer shall take such animal into custody and commit it for the above described confinement period.
 - d) Kansas Department of Health and Environment Rabies Control Requirements shall apply under this Section, unless the provisions of this Chapter require more stringent procedures. (Res. No. 21-50, Sec. 1)

ARTICLE 5. VICIOUS DOGS

2-501 Vicious Animals.

- a) It shall be a violation of this Section to own a vicious animal within the county.
- b) A vicious animal does not include an animal that has caused severe injury to any person while a person was committing a criminal offense, or willful trespass on the property of the owner of the animal that caused severe injury. The provisions of this article shall not apply to a police dog being used to assist one or more Law Enforcement Officers acting in an official capacity.
- c) Initiation of Criminal Proceeding. In addition to any other method of initiating a criminal proceeding under applicable law, any Enforcement Officer may, with probable cause, initiate a criminal proceeding under this Article by making an offense report and serving a citation and notice to appear in district court upon the alleged violator. The offense report shall be forwarded to the district attorney for prosecution.

2-502 Penalties. Any violation of this Article shall be heard in Douglas County District Court. Any person violating any of the provisions of this Article shall, upon conviction and after a court examination of any prior conviction record to determine if the person has previously been convicted of the same offense, be sentenced by the court according to the following schedule:

- a) First violation of 2-501 shall be a fine of up to \$1,000 or, confinement in the county jail not to exceed one year, or by both fine and imprisonment.
- b) Any second or subsequent violation of 2-501 shall be a fine of up to \$2,500 and, in addition, confinement in the county jail not to exceed one year, or by both fine and imprisonment.
- c) Each day's violation shall constitute a separate offense under this Article.
- d) After notice of violation under this Article, within 30 days of the animal being impounded, a disposition hearing shall be held in front of an Administrative Hearing Officer regarding the disposition of the animal.
 - 1) The Administrative Hearing Officer shall order that the animal be removed from the county or humanely euthanized, and direct the Animal Shelter or its veterinary designee to ensure that the order is enforced.
 - 2) If the Administrative Hearing Officer orders the animal to be humanely euthanized pursuant to this subsection, that decision

shall be final unless the owner appeals to the Douglas County District Court. If an appeal is timely filed, the district court shall suspend the euthanasia order pending the final determination of the underlying criminal charge by the court.

- 3) If the animal is ordered removed from the county, the address in which the animal will reside shall be reported to the Douglas County Clerk's Office. If the animal is sold or transferred out of Douglas County, the owner shall notify the Douglas County District Attorney's Office prior to the sale or transfer. The Douglas County District Attorney's Office shall report the vicious animal determination to the County in which the animal will be kept.
- e) Restitution. The court shall order reasonable restitution allowable by law in connection with any violation of this Article.
- f) Other Remedies. The County shall have such other remedies as are and as may be from time to time provided by other applicable law. (Res. No. 21-50, Sec. 1)

ARTICLE 6. RECKLESS PET OWNERS

- 2-601 Any person found in violation of Chapter 2 of the Douglas County Code three (3) or more times in a 24 (twenty-four) month period shall be declared a Reckless Pet Owner.
- 2-602 Any person found in violation of Chapter 2 of the Douglas County Code three (3) or more times in a 24 (twenty-four) month period shall be declared a Reckless Pet Owner.
- a) name and address of the person subject to the declaration, and;
 - b) the description, violation, and convictions that lead to the declaration, and;
 - c) the name and description of all pets subject to the effects of the declaration, and;
 - d) instructions on appealing the declaration to the Administrative Hearing Officer.
- 2-603 Once declared a Reckless Pet Owner, the person shall not own, keep, possess, or harbor any additional animals for a period of 3 (three) full years from the date of the declaration. (Res. No. 21-50, Sec. 1)

ARTICLE 7. INVALIDITY AND SEVERABILITY

- 2-701 Partial Invalidity. If any provision of this Chapter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are severable.
- 2-702 Jurisdiction. The provisions of this Chapter shall apply to the unincorporated areas within Douglas County, Kansas and, in addition, shall apply within the city boundaries of any incorporated city located within Douglas County, Kansas, that adopts an ordinance or resolution or takes other formal action consenting to have this Chapter apply within such city's boundaries; provided, however, that any city's election to have this Chapter apply within such city's boundaries shall not, by implication, serve to repeal or invalidate any other animal control regulations otherwise applicable within such city. (Res. No. 21-50, Sec. 1)

CHAPTER 2. ANIMAL CONTROL

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ARTICLE 1. DEFINITIONS

- 2-101 As used in this Chapter, unless the context clearly indicates otherwise, the following words and terms shall have the following meanings:
- a) *Animal* means any live vertebrate creature except a human.
 - b) *Animal Shelter* means the facility or facilities contracted with or operated by Douglas County for the purpose of impounding or caring for animals held under the authority of this chapter or state law.
 - c) *Bite injury* means any contact between an animal's mouth and teeth and the skin of a bite victim which causes visible trauma, such as a puncture wound, laceration, abrasion, bruise or other piercing of the skin.
 - d) *Cat* means any member of the species, felis domesticus.
 - e) *Commercial Kennel* means any agricultural or residential parcel where four or more dogs or cats, or both, are maintained overnight in any one week for boarding, training or similar purposes for a fee or compensation, or where dogs or cats are produced for sale or sold, as determined by an Enforcement Officer.
 - f) *Dangerous Dog* means any dog which has:
 - 1) Caused a bite injury, other than severe injury, to any person, or
 - 2) Killed another dog or cat, or
 - 3) Caused severe injury to, or killed, equine, or livestock.
 - g) *Dog* means any members of the species, canis familiaris.
 - h) *Enforcement Officer* means a law enforcement officer, deputy, or humane investigator, with jurisdiction to enforce this Chapter in Douglas County, KS.
 - i) *Euthanasia* means the humane destruction of an animal that may be accomplished by any of those methods authorized by K.S.A. 47-1718.
 - j) *Equine* means a horse, pony, mule, zebra, or donkey.

- k) *Exotic* animal means any non-human primate or prosimian (chimpanzees, monkeys), any venomous snake, or constricting snake fully grown over eight feet in length, any member of the canidae, felidae, ursidae, macropodidae or proboscidae families, including hybrids thereof, and which include:
- 1) Any member of the dog (canid) family not customarily domesticated by man, or any hybrids thereof, including wolf hybrids which are a cross between a wolf and a domestic dog, but not including domestic dogs (*Canis familiaris*);
 - 2) Any member of the cat family weighing over fifteen (15) pounds not customarily domesticated by man, or any hybrids thereof, but not including domestic cats (*Felis catus*);
 - 3) Any member of the bear (*ursidae*) family, or any hybrids thereof; and
 - 4) Any member of the elephant (proboscidae) family, or any hybrids thereof.
- l) *Fowl* means domestic birds commonly kept for the production of meat, eggs, companionship, aesthetic, or feathers. Fowl shall include, but not be limited to, chickens, ducks, turkeys, geese, swans, peafowl, guinea fowl, ostriches, and emus.
- m) *Health Director or Director of Health* means the director of the Lawrence-Douglas County Health Department. The term includes the director's authorized representative.
- n) *Livestock* means cattle, sheep, goats, pigs, llamas and alpacas. Livestock excludes fowl and equine.
- o) *Livestock Guardian Dog* means a dog used to live with and guard livestock, other than itself, from predators. The following characteristics and conditions shall apply to this definition:
- 1) Has free range to roam within a property where a livestock herd is also present; and
 - 2) Fresh water and food is made available daily, along with adequate shelter available at all times;
 - 3) General welfare is monitored by a person on a daily basis;
 - 4) The dog must be microchipped and registered with the Animal Shelter pursuant to Section 2-213.
- p) *Owner* means any person having a right of property in an animal, or who keeps or harbors an animal, or who has it in his care or residence, or acts as its custodian. A parent or legal guardian shall be deemed to be an Owner of animals owned or maintained by minors upon their premises.
- q) *Person* means any individual, corporation, partnership, organization, or

institution commonly recognized by law as a unit.

- r) *Severe Injury* means disfigurement, protracted impairment of health, or impairment of the function of any bodily organ.
- s) *Vicious Dog* means any Dog which has caused severe injury to any person. (Res. No. 24-36, Sec. 1)

ARTICLE 2. ENFORCEMENT, IMPOUNDMENT, KENNELS, AND LIVESTOCK GUARDIAN DOG REGISTRATION

- 2-201 Any animal found by an Enforcement Officer to be in violation of this Chapter may be impounded by an Enforcement Officer and placed in the Animal Shelter.
- 2-202 All costs and fees associated with impounding, boarding, and medical care of an animal pursuant to this Chapter shall be paid to the Animal Shelter before the animal is released to the Owner. Notwithstanding required hold times in other sections of this Chapter, if a known Owner has not reclaimed their animal within 24 hours of notification, the Animal Shelter may send written notice to the known Owner to immediately retrieve the animal from the shelter. If, 10 days after notice being provided, the animal is not retrieved, the animal shall become the property of the Animal Shelter. In the event that the Owner of such animal fails to pay such costs and fees, the County or Animal Shelter shall be entitled to seek reimbursement of costs either in an independent civil proceeding or the costs may be requested as restitution as part of any applicable criminal proceeding.
- 2-203 The Douglas County Commission shall provide an Animal Shelter or shelters for the reception and humane care of animals impounded under this Chapter, and for this purpose may contract with any governmental entity, nonprofit organization, or association, or licensed veterinarian upon such terms and conditions as are mutually deemed appropriate.
- 2-204 Interference with Enforcement Officers Prohibited. It shall be unlawful for any person to knowingly obstruct, resist, or oppose an Enforcement Officer in the process or execution or the attempt to serve any summons, citation, writ, warrant, or order; conceal, destroy or materially alter evidence; or otherwise interfere with any person appointed or given authority under this Chapter in the performance of his or her official duties as prescribed herein. It shall be unlawful for any person to refuse to identify himself or herself by correct name and address when asked to do so by an Enforcement Officer when the officer has reasonable suspicion to believe that such person has violated this Chapter.
- 2-205 Refusal to Deliver Animals Prohibited. It is unlawful for a person to refuse to

deliver an animal to an Enforcement Officer or to the Animal Shelter when requested to do so under impoundment provisions of this Chapter. If a person refuses to deliver an animal for impoundment under this Chapter, the Enforcement Officer may seek a warrant to impound the animal.

- 2-206 Removal of Animals from Enforcement Officers or Animal Shelter Prohibited. It is unlawful to remove an animal from the custody of an Enforcement Officer, Animal Shelter, or other location at which an animal is located when such animal has been impounded by such officer under the provisions of Chapter or state law when such removal is unauthorized.
- 2-207 No Limitation in Rabies Cases. The provisions of this Chapter shall not reduce or otherwise limit any applicable law that requires the impounding or holding of animals for observation following exposure by an animal that could possibly carry rabies or other communicable diseases. In addition, nothing in this Chapter shall prohibit the humane destruction of an animal suspected of carrying rabies if such destruction is done in compliance with other applicable law. In the event that an animal would otherwise be impounded under this Section, but is held at a different location for observation, the animal may be impounded under this Section immediately upon expiration of the observation period.
- 2-208 Impoundment of At-Large Animals.
- a) A Dog, Cat or other animal found to be turned loose by an Owner or at-large by an Enforcement Officer or person, within the boundaries or unincorporated area of Douglas County, may be impounded in the Animal Shelter.
 - b) The Animal Shelter shall make a record of all Dogs, Cats, or other animals so impounded with their description, date of impoundment and rabies vaccination number. The animal shall be listed and viewable for the public to inspect.
 - c) If the animal is microchipped or if the Owner is known or reasonably ascertainable, the Animal Shelter shall provide notice of impoundment to the known Owner. Providing notice does not extend the time in which the animal shall be held before release or disposition under this Section.
 - d) If the animal appears to be at-large with no Owner and within 3 business days from the date any animal is impounded the Owner of such animal does not claim his or her animal, the animal shall become the property of the Animal Shelter. (Ref. K.S.A. §47-1710)
 - e) The Owner or custodian of an animal disposed of pursuant to this Section shall not be entitled to recover damages for the disposition of such animal.

- 2-209 Any animal impounded pursuant to this Chapter, excluding Sec. 2-407 (Vicious Dog), may be released while the matter is pending in District Court upon the recommendation of an Enforcement Officer. If, in the opinion of an Enforcement Officer or Animal Shelter, the animal would constitute a menace to the health, safety or welfare of the public if released from custody, or may be subject to additional harm or violations, the animal may be held pending adjudication of the matter.
- 2-210 Enforcement. Enforcement Officers are empowered to enforce this Chapter by including, but not limited to, inspection, investigation, and writing citations for violations. Enforcement Officers may work with Code Enforcement to enforce any domestic animal-related inspections, conditional use permits, and site visits to aid in enforcement of other Chapters of the Douglas County Code, and abate any nuisances. It is unlawful to knowingly impede the duties of an Enforcement Officer.
- 2-211 Commercial Kennel.
- a) Noise. No person shall maintain any commercial kennel which, by creating a noise for frequent or prolonged periods of time by day or night, disturbs the peace and quiet of any person or family of ordinary sensitivity within the vicinity of the noise.
 - b) Odor. It shall be unlawful to maintain any commercial kennel which by the nature of its maintenance or by the numbers of the same shall create an offensive odor so as to be objectionable to any person of ordinary sensitivity living within the vicinity of the odor.
 - c) It shall be unlawful for any person to maintain a commercial kennel without first obtaining a conditional use permit from Douglas County Board of Commissioners.
 - d) All commercial kennels must include the following:
 - 1) Any pens, runs, cages or kennels shall be located at least 500 feet from any property lines.
 - 2) A minimum of 20 acres is required for a kennel.
 - 3) Adequate water supply must be provided for drinking and cleaning and appropriate sewage and waste management measures, approved by the Health Department, must be followed to eliminate odor.
 - 4) The site plan must show contours so appropriate drainage of cleaning water and storm water runoff can be determined.
 - 5) Shelters must be provided with heating and cooling units to protect the animals from extreme temperatures.
 - 6) An exercise area such as an individual dog run or an exercise yard

which may also be used for training and obedience classes must be provided.

- 7) Runs shall be adequately fenced and roofed to contain animals.
- 8) The building design, site layout, and/or other features must result in a facility that does not create noise which negatively impacts nearby properties.
- 9) There must be an occupied residential home on the property of the commercial kennel and the occupant's name and telephone number must be listed on the permit application and subsequent renewals. (ref. 12-306-23, and 12-306-23.01)

2-212 Penalties. Any person violating any of the provisions of this Article shall be issued a notice of violation and fine, and notice of hearing which shall be served not less than 10 days prior to the date of such hearing in Douglas County District Court Failure to appear may result in issuance of a warrant for arrest. The Court, upon finding and order, and after examining the record for any prior conviction, finding, order, or record to determine if the person has previously been found in violation of the same offense, may fine the person according to the following schedule:

- a) First violation, fine of \$100.
- b) Second or subsequent violation, fine of \$200 to \$500.
(Ref. K.S.A. §77-501 through 77-566, et. seq.)
- c) Other Remedies. The County shall have such other remedies as are and as may be from time to time provided by other applicable law including removal of the animal(s) from the county.

2-213 Registration of Livestock Guardian Dog. A Livestock Guardian Dog as defined in Section 2-101(o) must be registered with the Animal Shelter, which requires the following information:

- a) Name, address, and telephone number of the Owner of the Dog;
- b) Name, address, and telephone number of the Owner of the property upon which the Dog can be found working as a Livestock Guardian Dog
- c) Identification number of microchip on the Dog; and
- d) Payment of a one-time administrative fee to the Animal Shelter of \$25 for the dog.

(Res. No. 24-36, Sec. 1)

ARTICLE 3. EXOTIC ANIMALS

2-301 It is unlawful to own or possess an Exotic Animal in Douglas County, Kansas.

- 2-302 Exclusion, Zoos, and Other Facilities - The provisions of this Section shall not apply to properly maintained zoological parks accredited by the Association of Zoos and Aquariums; licensed or accredited medical institutions; accredited educational institutions; veterinary clinics or humane societies in possession of exotic animals for impoundment, treatment, or rehabilitation purposes; or wildlife rescue facilities as designated by the Kansas Department of Wildlife and Parks
- 2-303 Exclusion, Transitional Transporting - The provisions of this Section shall not apply to persons transporting exotic animals through Douglas County, provided that the transit time through Douglas County shall not be more than 6 hours, during which time, no exotic animal may be sold, exchanged, adopted, displayed, and no event or service that involves the exotic animal may occur. This includes any contact, whether direct or indirect, with the public.
- 2-304 Penalties. Any person violating any of the provisions of this Article shall immediately remove the animal from Douglas County. Any person violating any of the provisions of this Article shall be issued a notice of violation and fine, and notice of hearing which shall be served not less than 10 days prior to the date of such hearing in the Douglas County District Court. The Court, upon finding and order, and after examining the record for any prior conviction, finding, order, or record to determine if the person has previously been found in violation of the same offense, may fine the person according to the following schedule:
- a) First violation, fine of \$100.
 - b) Second or subsequent violation, fine of \$200 to \$500. (Ref. K.S.A. §77-501 through 77-566, et. seq.) (Res. No. 24-36, Sec. 1)
(Res. No. 24-36, Sec. 1)

ARTICLE 4. NUISANCE, DANGEROUS, AND VICIOUS ANIMALS

- 2-401 Property.
- a) It shall be unlawful for any person owning or possessing an animal to permit or allow such animal to go upon any road, trail, private lands or premises without the permission of the Owner of such premises, and tear up, destroy, or damage the property therein. This is including, but not limited to, gardens, flowerbeds, agriculture, and outbuildings.
 - b) It shall be unlawful to own, keep, harbor, or possess any Dog or Cat on a premises not occupied by persons as determined by an Enforcement Officer.

- 1) This Section 2-401(b) does not apply to a Livestock Guardian Dog registered pursuant to 2-213.
- 2) Notwithstanding the above exception, it is unlawful to maintain a Livestock Guardian Dog on a premises not occupied by persons if the Livestock Guardian Dog has been found in violation of this Chapter and the Livestock Guardian Dog Owner has been convicted of a violation of this Chapter, or a violation of K.S.A. §21-6412(a), or a violation of K.S.A. §21-6414(a), or found liable under K.S.A. §47-645 by a court of competent jurisdiction.
- c) It shall be unlawful to own or possess Dogs or Cats which, by creating a noise for frequent or prolonged periods of time by day or night, disturbs the peace and quiet of any person or family of ordinary sensitivity within the vicinity of the noise.
- d) It shall be unlawful to own or possess Dogs or Cats which, by the nature of their maintenance or by the numbers of the same shall create an offensive odor so as to be objectionable to any person of ordinary sensitivity living within the vicinity of the odor. (Res. No. 24-36, Sec. 1)

2-402 Running at large—Prohibited; exceptions.

- a) It shall be unlawful for any person to own, keep or harbor any Dog and to permit or allow the Dog to run at large within the county. For the purpose of this section, any Dog shall be deemed to have been permitted or allowed by its Owner to run at large when a complaint is filed that alleges the animal is found outside the real property lines of the Owner or property lines of a property upon which the Dog is permitted to be and not effectively under the control of its Owner.
- b) Official use of Dogs by any governmental unit shall be deemed in compliance with subsection (a) of this section.
- c) An Owner, while participating in or training for obedience classes or trials, shall be deemed to be in compliance with subsection (a) of this section. Evidence of this shall be shown by the fact that the Dog and Owner are going through standard obedience exercises, the Owner has a leash on the Owner's person, and the Dog is under immediate control. The Dog's tags must be readily available on the Owner's person.

2-403 Animal Injury.

- a) It shall be unlawful for any person to own, keep, or harbor an animal that, without provocation, causes injury to another domestic Dog or owned Cat, Equine, or Livestock, excluding severe injury or death as covered in Sec. 2-407 "Dangerous Dog," regardless of the purpose for which the Livestock is owned. This section shall not apply to animals injured while willfully trespassing on the Owner, keeper, or harbinger of the offending animal's premises.

- b) It shall be unlawful for any person to own, keep, or harbor an animal that, without provocation, causes death to any owned Fowl. This section shall not apply to Fowl found off the premises of the Owner of the Fowl.

2-404 Animals putting person in fear. No person shall own, keep or harbor any animal that without provocation, interferes with, chases, bites, or jumps upon any persons or animal, or behaves in a way that a reasonable person would find threatening, on a public right of way or off the property of the Owner, keeper, or harbinger of the offending animal.

2-405 Nuisance Animals, Same—Declaration.

- a) Upon the Court's finding and order for a third time involving the same animal in any 24-month period of subsections 401, 402, or 403 in any combination thereof, or first finding and order of violating of section 404 shall constitute a "Nuisance Animal." The Animal Shelter shall create and maintain a list of Nuisance Animals upon final disposition of a Nuisance Animal declaration by the Court.
- b) No animal may be declared a nuisance if, at the time of violations the person or animal was teasing, tormenting, abusing or assaulting the alleged Nuisance Animal. No animal may be declared a nuisance if the animal was protecting or defending a human being or animal within the immediate vicinity of the animal from what a reasonable person would perceive as an unjustified attack or assault.
- c) No person owning, harboring or having the care or custody of a Nuisance Animal shall suffer or permit such animal to go unconfined beyond the premises of such person unless such dog is securely leashed and muzzled or otherwise securely restrained.
- d) A Nuisance Animal is "unconfined" if while on the premises of its Owner such animal is not securely confined indoors or confined in a securely enclosed and locked pen upon the premises of the person. Such pen must be adequate to ensure the confinement of such Dog upon the premises.
- e) The Owner of a Nuisance Animal shall attend and complete a training class approved by the Enforcement Officer that is designated to teach the Owner how to manage or correct problem behavior. The class must be completed and receipt thereof sent to the Animal Shelter within 60 days following finding and order of the triggering offense and Nuisance Animal declaration.
- f) Failure to keep a Nuisance Animal according to the above requirements shall be a separate violation of this Article and the animal may be subject to impoundment pending the disposition of the keeping in violation hearing.

- g) Upon the Owner's request, the County may remove any animal from the list of Nuisance Animals if there are no additional instances of the behavior described in this Section within 24 months of the date of conviction and designation of a Nuisance Animal, and the Owner has complied with all keeping restrictions outlined in this subsection without incident. Request shall be made to the Animal Shelter in writing and forwarded to the Court for determination.

2-406

Dangerous Dogs.

- a) It shall be a violation of this section to own, keep, or harbor a Dangerous Dog. The Animal Shelter shall create and maintain a list of Dangerous Dogs upon final disposition of a Dangerous Dog violation by the Court.
- b) Notwithstanding the definition of a Dangerous Dog, no Dog may be declared dangerous if any injury or damage is sustained by a person or animal who, at the time such injury or damage was sustained, was:
 - 1) Trespassing on the real property of the Owner or keeper of the animal, or;
 - 2) A member of the household, or;
 - 3) Was teasing, tormenting, abusing or assaulting the Dog or was committing or attempting to commit a crime, or;
 - 4) If the Dog was protecting or defending a human being or animal within the immediate vicinity of the animal from what a reasonable person would perceive as an unjustified attack or assault.
 - 5) The provisions of this article shall not apply to a police Dog being used to assist one or more Law Enforcement Officers acting in an official capacity.
- c) Notwithstanding the definition of a Dangerous Dog, no Dog may be declared dangerous based solely on size or breed, or mix of breed; or if death to a Dog or cat occurred solely due to a size disparity between the animals and there was no sustained vicious attack on the Dog or Cat.
- d) Any Dog impounded under probable cause of being a Dangerous Dog and which in the judgment of the Enforcement Officer would constitute a menace to the health, safety or welfare of the public if released from custody, may be held pending the hearing of the violation of 2-406(a). If not so determined, the Dog may, after having been held pursuant to K.A.R. 28-1-13, be returned to its Owner until final determination is made by the Court as to whether a violation of this section has occurred. If returned pending the final disposition of the case, the Dog must be kept securely confined and must be muzzled while in public until final determination is made as to whether a violation of this section occurred.
- e) Within the notice of violation in 2-407, the Enforcement Officer shall include the following:

- 1) A description of the animal; and,
 - 2) The name and address of the Owner, keeper or harborer of the animal, if known; and,
 - 3) The facts upon which the violation is based; and,
 - 4) The restrictions placed on the animal as a result of the violation pending the outcome of the hearing.
- f) Any violation of this section shall be punishable pursuant to the provisions of 2-407.
- g) Upon finding and order of owning, keeping, or harboring a Dangerous Dog, and the dog returning to its Owner, the Dog shall be kept subject to the following standards:
- 1) Leash and Muzzle. No person shall permit a Dangerous Dog to go outside its home, kennel, or pen unless such Dog is securely leashed with a leash no longer than four feet in length. No person shall permit a Dangerous Dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. Such Dogs may not be leashed to inanimate object such as trees, posts, or buildings. In addition, all Dangerous Dogs on a leash outside the dog's home or kennel must be muzzled by a muzzling device sufficient to prevent such animal from biting persons or other animals.
 - 2) Confinement. All Dangerous Dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel when not indoors, except when leashed and muzzled as above provided. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine Dangerous Dogs must be locked with a key or other locking mechanism. Such structure must have a secure bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than two feet. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition, and must not be the primary enclosure for keeping of the animal. Enforcement Officers shall have the authority to monitor and inspect the keeping of all Dangerous Dogs.
 - 3) Confinement Indoors. No Dangerous Dog may be kept on a porch, patio or in a part of a house or structure that would allow the Dog to exit such building on its own volition. In addition, no such Dog may be kept in a house or structure when screen doors are the only obstacle preventing the Dog from exiting the structure.
 - 4) Signs. All Owners of Dangerous Dogs within the county shall within 10 days of conviction, display in a prominent place on their premises a sign easily readable by the public, invitees, or

licensees, using the words Beware of Dog or Beware of Dangerous Dog.

- 5) Insurance. All Owners of Dangerous Dogs must within 10 days of conviction provide to the Animal Shelter proof of liability insurance in a single incident amount of no less than \$200,000 for bodily injury to or death of any person or persons or for damage to property owned by any persons which may result from the Ownership, keeping or maintenance of such dog. The insurance policy will provide that no cancellation of the policy will be made unless 10 days written notice is first given to the Animal Shelter.
- 6) Identification Photographs. All Owners of Dangerous Dogs must within 10 days of conviction provide to the Animal Shelter two color photographs of the registered animal clearly showing the color and approximate size of the Dog.
- 7) Microchip. All Owners of Dangerous Dogs must within 10 days of conviction microchip the animal if not already microchipped and provide microchip information to the Animal Shelter to register the animal as dangerous.
- 8) Spaying/Neutering. All Owners of Dangerous Dogs must within 10 days of conviction spay or neuter the animal and provide proof of sterilization to the Animal Shelter.
- 9) Training Class. The Owner of the Dangerous Dog shall attend and complete a training class approved by the Enforcement Officer that is designated to teach the Owner how to manage or correct problem behavior. The class must be completed and receipt thereof sent to the Animal Shelter within 90 days following conviction.
- 10) Sale or Transfer of Ownership Prohibited. Sale - No person shall sell, barter or in any other way dispose of a Dangerous Dog to any person within the county unless the recipient person resides permanently in the same household and on the same premises as the registered Owner of such Dog; provided that the registered Owner of a Dangerous Dog may sell or otherwise dispose of a registered dog or the offspring or such Dog to persons who do not reside within the county. If the Owner sells or transfers Ownership outside of Douglas County, the Owner shall notify the Animal Shelter of the name and address of the transferee. The Animal Shelter shall report the Dangerous Dog designation to the County in which the animal will be kept.
- 11) Removal from List. Upon the Owner's written request, and approval by the Court, the County may remove any dog from the list of Dangerous Dogs if there are no additional instances of the behavior described in this Section within 24 months of the date of conviction and designation of a Dangerous Dog and the Owner has complied

with all keeping standards outlined in this subsection.

- 12) Failure to Comply. It shall be unlawful for the Owner of a Dog deemed by the County to be a Dangerous Dog to fail to comply with the keeping standards and conditions set forth in this Section. Any Dog previously found to be dangerous and which is found to be the subject of a violation of this Section shall be subject to immediate seizure and impoundment. Failure to comply with the provisions of this Section is deemed a separate offense. Upon finding and order, the Court shall order the immediate removal of the animal from the county, may order the animal humanely euthanized, or may order the surrender of the animal to the Animal Shelter for disposition.

(Res. No. 24-36, Sec. 1)

2-407

Penalties. Any person violating any of the provisions of this Article shall be issued a notice of violation and fine, and notice of hearing which shall be served not less than 10 days prior to the date of such hearing in the Douglas County District Court. Failure to appear may result in issuance of a warrant for arrest. The Court, upon finding and order, and after examining the record for any prior conviction, finding, order, or record to determine if the person has previously been found in violation of the same offense, may fine the person according to the following schedule:

- h) First violation of 2-401 and 2-402, fine of \$100.
- i) Second or subsequent violation of 2-401 and 2-402, fine of \$200 to \$500.
- j) First violation of 2-403, 2-404, 4-405, or 2-406, fine of \$200 to \$500.
- k) Second or subsequent violation of 2-403, 2-404, 4-405, or 2-406, fine of \$500 to \$1,000.
- l) Restitution. The Court shall order reasonable restitution allowable by law in connection with any violation of this Article.
- m) Other Remedies. The County shall have such other remedies as are and as may be from time to time provided by other applicable law including removal of the animal from the county.

(Res. No. 24-36, Sec. 1)

2-408

Bites; Confinement.

- a) Dogs, Cats, or Ferrets Exposing Humans. Any Dog, Cat, or ferret that causes any penetration of the skin by the teeth or any contamination of mucous membranes or fresh, open cuts in a person's skin with saliva shall be confined according to the following schedule, regardless of vaccination history:

- 1) Owned or Wanted Dog, Cat, or Ferret. Beginning on the day of the exposure, any owned or wanted Dog, Cat, or ferret shall be observed for ten (10) days pursuant to a Confinement Order prepared by an Enforcement Officer. The Confinement Order shall detail the facts of the incident including how the human was potentially exposed to rabies. If the incident did not cause severe injury and the Owner has proof of current rabies vaccination, the Enforcement Officer, in his or her discretion, may determine that the animal may be confined at the residence of the Owner. Any other confinement shall be done at the Animal Shelter or veterinary clinic. The exact period of confinement may be longer than ten (10) days at the discretion of the observing veterinarian. The Owner shall be liable for all costs and fees incurred.
 - 2) Unowned, Stray, or Unwanted Dog, Cat, or Ferret. Any healthy unowned, unwanted, or stray Dog, Cat, or Ferret shall be confined in the Animal Shelter for ten (10) days for observation. If the severity of the exposure to a person is such that it creates a high risk of potential rabies exposure, the Animal Shelter shall have the authority to waive any holding period and euthanize immediately for urgent testing.
- b) Dogs, Cats, or Ferrets Exposed By Other Animals. Any Dog, Cat, or ferret that has been exposed to rabies through any penetration of the skin by the teeth or any contamination of mucous, open cuts in the animal's skin with saliva by a bat or a wild terrestrial carnivore, as defined in the most current version of the Kansas Department of Health and Environment Investigation Guidelines, shall be reported to an Enforcement Officer. The Enforcement Officer will issue an Observation Order or Confinement Order according to the following schedule:
- 1) Dogs, Cats, and ferrets that have appropriate documentation of current rabies vaccination shall receive an immediate booster vaccination by a licensed veterinarian within 96 hours of exposure and shall be kept under the Owner's control and observed for forty-five (45) days by an Observation Order. The Observation Order shall detail the facts of the exposure and the date and certification number of the current rabies vaccination. If the booster vaccination was given later than 96 hours after exposure, the Lawrence-Douglas County Health Department has the authority to extend the observation period and instruct the Enforcement Officer to issue the appropriate order.
 - 2) Dogs and Cats that are overdue for the rabies vaccination and have appropriate documentation of a previous vaccination shall receive an immediate booster vaccination by a licensed veterinarian within 96 hours of exposure and shall be kept under the Owner's control and observed for forty-five (45) days by an Observation Order. If the booster vaccination was given later than 96 hours after exposure, the Lawrence-Douglas County Health Department has the authority

- to extend the observation period and instruct the Enforcement Officer to issue the appropriate order.
- 3) Dogs and Cats that are overdue for the rabies vaccination and have no documentation of a previous vaccination shall be reported to the Lawrence-Douglas County Health Department and may be required to be observed for forty-five (45) days or confined for up to four months. The Lawrence-Douglas County Health Department shall instruct an Enforcement Officer to issue the appropriate order.
 - 4) Ferrets that are overdue for the rabies vaccination shall be evaluated on a case-by-case basis by the Lawrence-Douglas County Health Department who shall then instruct an Enforcement Officer to issue the appropriate order.
 - 5) Dogs, Cats, and ferrets that have never been vaccinated against rabies shall be euthanized immediately or, if the Owner is unwilling to euthanize, shall receive an immediate booster vaccination by a licensed veterinarian within 96 hours of exposure. The Dog or Cat shall be confined at a licensed Animal Shelter or veterinary clinic for four (4) months, or six (6) months for ferrets pursuant to a Confinement Order prepared by an Enforcement Officer. If the booster vaccination was given later than 96 hours after exposure, the confinement period shall extend to six (6) months pursuant to a Confinement Order prepared by an Enforcement Officer. The Owner shall be liable for all costs and fees incurred.
- c) Any Owner who fails to comply with the provisions of this Section, within twenty-four (24) hours or one (1) business day of notification, shall be deemed in violation of this Article and the officer shall take such animal into custody and commit it for the above described confinement period.
 - d) Kansas Department of Health and Environment Rabies Control Requirements shall apply under this Section, unless the provisions of this Chapter require more stringent procedures. (Res. No. 24-36, Sec. 1)

ARTICLE 5. VICIOUS DOGS

2-501 Vicious Dogs.

- a) It shall be a violation of this Section to own a Vicious Dog_within the county.
- b) A Vicious Dog does not include an animal that has caused severe injury to any person while a person was committing a criminal offense, or willful trespass on the property of the Owner of the animal that caused severe injury. The provisions of this article shall not apply to a police Dog being used to assist one or more Law Enforcement Officers acting in an official capacity.

2-502 Penalties. Any violation of this Article shall be heard in Douglas County District Court. Failure to appear may result in issuance of a warrant for arrest. Any person violating any of the provisions of this Article shall, upon conviction and after the Court's examination of any prior conviction record to determine if the person has previously been convicted of the same offense, be sentenced by the court according to the following schedule:

- a) First violation of 2-501 shall be a fine of up to \$1,000 or, confinement in the county jail not to exceed one year, or by both fine and imprisonment.
- b) Any second or subsequent violation of 2-501 shall be a fine of up to \$2,500 and, in addition, confinement in the county jail not to exceed one year, or by both fine and imprisonment.
- c) Each day's violation shall constitute a separate offense under this Article.
- d) After notice of violation under this Article, within 30 days of the animal being impounded, a disposition hearing shall be held in Douglas County District Court regarding the disposition of the animal.
 - 1) The Court shall order that the animal be removed from the county or humanely euthanized, and direct the Animal Shelter or its veterinary designee to ensure that the order is enforced.
 - 2) If the Court orders the animal to be humanely euthanized pursuant to this subsection, that decision shall be final unless the Owner appeals the decision. If an appeal is timely filed, the District Court shall suspend the euthanasia order pending the final determination of the underlying criminal charge by the court. During such time of animal impoundment, fees shall accrue until disposition order of the appeal.

- 3) If the animal is ordered removed from the county, the address in which the animal will reside shall be reported to the Animal Shelter. If the animal is sold or transferred out of Douglas County, the Owner shall notify the Douglas County District Attorney's Office prior to the sale or transfer. The Douglas County District Attorney's Office shall report the vicious animal determination to the County in which the animal will be kept.
- e) Restitution. The court shall order reasonable restitution allowable by law in connection with any violation of this Article.
- f) Other Remedies. The County shall have such other remedies as are and as may be from time to time provided by other applicable law. (Res. No. 24-36, Sec. 1)

ARTICLE 6. RECKLESS PET OWNERS

- 2-601 Any person found in violation of Chapter 2 of the Douglas County Code three or more times in a 24 (twenty-four) month period shall be declared a Reckless Pet Owner.
- 2-602 To declare a Reckless Pet Owner, the Enforcement Officer shall serve notice of the declaration in the following format:
- a) name and address of the person subject to the declaration, and;
 - b) the description, violation, and convictions that lead to the declaration, and;
 - c) the name and description of all pets subject to the effects of the declaration, and;
 - d) instructions on appealing the declaration to the Douglas County District Court.

Once declared a Reckless Pet Owner, the person shall not own, keep, possess, or harbor any additional animals for a period of 3 (three) full years from the date of the declaration. (Res. No. 24-36, Sec. 1)

(Res. No. 24-36, Sec. 1)

ARTICLE 7. CODE FOR ENFORCEMENT PROCEDURE

- 2-701 Title. This article shall be known and may be cited as the "Code for Enforcement Procedure of Animal Control Violations."

- 2-702 Authority. This Article is adopted pursuant to the home rule authority of the Board of County Commissioners pursuant to K.S.A. 19-101a, *et seq.*
- 2-703 Intent and Purpose. This Article is intended to document the procedure for the enforcement of certain Animal Control violations as specifically provided for in Chapter 2 of the Code.
- 2-704 Enforcement Officers. Enforcement Officers shall have the power and authority to administer and enforce the provisions of Chapter 2 of the Code.
- 2-705 Commencement of Enforcement Proceedings. A copy of the Complaint and Notice to Appear shall be served upon the person charged with the Animal Control violation by delivering a copy to such person personally, or by leaving it at the dwelling house of such person or usual place of abode with some person of suitable age and discretion then residing therein, or by mailing it to the last known address of such person. A Complaint and Notice to Appear may be served by any law enforcement officer or code enforcement officer within the state. If mailed, the notice to appear shall be mailed by an Enforcement Officer. Upon service by mail, the Enforcement Officer shall execute a verification to be filed with a copy of the Complaint and Notice to Appear. Said verification shall be deemed sufficient if in substantially the following form:

“The undersigned hereby certifies that on the _____ day of _____, 20____, a copy of notice to appear was mailed to _____ at _____.

Signature of Enforcement Officer”

- 2-706 Time and Place of Hearings. Enforcement Hearings shall be held on dates and times established by the Chief Judge of the District Court of Douglas County. Enforcement hearings shall be held in the Douglas County Judicial and Law Enforcement Building located at 111 East 11th Street, Lawrence, Kansas 66044.
- 2-707 Appearance; waiver of hearing. The person charged with the Animal Control violation must appear for the enforcement hearing at the place and time specified in the notice to appear. Prior to the enforcement hearing, the person charged with the Animal Control violation may waive his or her right to the enforcement hearing and pay the fine for the violation as established in Chapter 2 of the Code,

or come into compliance with the alleged violation, the Court may file a Notice of Voluntary Dismissal.

- 2-708 Enforcement Hearing. All enforcement hearings under this Article shall be conducted before the appointed District Court Judge who shall regulate the course of the proceedings. The Judge may grant continuances of the enforcement hearing upon a showing of good cause. The Judge shall afford the parties the opportunity to present evidence, cross-examine witnesses, submit rebuttal evidence, and present argument. Upon the completion of the enforcement hearing, if the Judge finds that the person charged has committed the Animal Control violation, the Court may fine the person in accordance with Chapter 2 of the Code.
- 2-709 Failure to appear and failure to pay. Failure to appear shall constitute a judgment on behalf of the County. The Court may take further steps to enforce the failure to appear including but not limited to refusing to redeem an impounded animal
(Res. No. 24-36, Sec. 1)

ARTICLE 8. INVALIDITY AND SEVERABILITY

- 2-801 Partial Invalidity. If any provision of this Chapter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are severable.
- 2-802 Jurisdiction. The provisions of this Chapter shall apply to the unincorporated areas within Douglas County, Kansas and, in addition, shall apply within the city boundaries of any incorporated city located within Douglas County, Kansas, that adopts an ordinance or resolution or takes other formal action consenting to have this Chapter apply within such city's boundaries; provided, however, that any city's election to have this Chapter apply within such city's boundaries shall not, by implication, serve to repeal or invalidate any other animal control regulations otherwise applicable within such city.
(Res. No. 24-36, Sec. 1)

CHAPTER 3. BUILDING AND HOUSING

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ARTICLE 1. RESERVED

ARTICLE 2. RESERVED

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ARTICLE 4. RESERVED

ARTICLE 5. SANITARY CODE

- 3-501 **DECLARATION OF NECESSITY.** The Board of County Commissioners of Douglas County, Kansas (the “Board”) declares that the proposed Douglas County Sanitary Code is necessary for the protection of the health and welfare of the public. (Res. 08-44, Sec.1)
- 3-502 **ADOPTION OF CODE.** The Douglas County Sanitary Code, as proposed by the Lawrence-Douglas County Health Board and submitted to and, on August 7, 2008, approved by the Secretary of Health and Environment of the State of Kansas, and as presented to the Board at the public hearing on October 15, 2008, is hereby adopted and the provisions thereof are incorporated and made a part of this Resolution as if fully set forth within the text of this code. (Res. 08-44, Sec. 2)
- 3-503 **PURPOSE OF CODE.** The purpose of the Douglas County Sanitary Code is to set forth procedures and regulations that shall be followed and administered to promote and protect the health, safety, comfort and general welfare of the people of Douglas County, Kansas. Enforcement of the Douglas County Sanitary Code will reduce and retard the development of environmental conditions that are hazardous or could be potentially hazardous to the public’s health and safety. (Res. 08-44, Sec. 3)
- 3-504 **AREAS SUBJECT TO THE CODE.** The boundaries of the areas to be subjected to the Douglas County Sanitary Code are the boundaries of

Douglas County, Kansas; provided that, the Douglas County Sanitary Code shall not apply to incorporated cities within Douglas County, Kansas or to any premises under one ownership which exceeds 650 acres in area and which is used only for agricultural purposes. For this purpose, "agricultural purposes" means a purpose related to the production of livestock or crops. (Res. 08-44, Sec. 4)

- 3-505 COPIES AVAILABLE FOR INSPECTION. Copies of the Douglas County Sanitary Code adopted by this Resolution 08-44 are available for public inspection at the Lawrence-Douglas County Health Department, 200 Maine, Suite B, Lawrence, Kansas. (Res. 8-44, Sec. 5)
- 3-506 REPEAL OF PRIOR RESOLUTION. . Resolution No. 01-37 and the prior version of the Douglas County Sanitary Code adopted by Resolution No. 01-37 are hereby repealed and replaced by this Resolution and the Douglas County Sanitary Code adopted by this Resolution. (Res. 8-44, Sec.6)
- 3-507 EFFECTIVE DATE. This Resolution shall take effect and be in force from and after publication once in the official Douglas County newspaper. (Res. 8-44, Sec. 7)

**SANITARY CODE
DOUGLAS COUNTY, KANSAS**

CHAPTER 1 ADMINISTRATIVE PROCEDURES

SECTION 1 AUTHORITY AND POLICY

- 1-1.1 Legal Authority. This code is adopted under the authority granted to the Board of County Commissioners by K.S.A. 19-3701 et. seq. as amended.
- 1-1.2 Purpose. The purpose and intent of this code is to set forth procedures and regulations that shall be followed and administered to promote and protect the health, safety, comfort and general welfare of the people of Douglas County, Kansas. The enforcement of this code will reduce and retard the development of environmental conditions that are hazardous or could potentially be hazardous to people's health and safety.
- 1-1.3 Title. This code shall be known and referred to as the Douglas County Sanitary Code.
- 1-1.4 Applicability. The standards shall not apply to incorporated cities or to any premises under one ownership which exceeds 650 acres in area and which is used only for agricultural purposes. For the purposes of these standards "agricultural purposes" means a purpose related to the production of livestock or crops.
- 1-1.5 Effective Date. This code shall take effect and be in force from and after its adoption by county resolution and publication of the resolution once in the official county newspaper.

SECTION 2 DEFINITIONS

The following words and phrases, when used in this code, shall have the meanings ascribed to them in this section, unless indicated otherwise.

- 1-2.1 Administrative Rules: those rules and regulations contained in Chapter 1 of this code which prescribe general procedures to be followed in the administration of the code adopted by the county.
- 1-2.2 Authorized Representative: any employee of the Lawrence-Douglas County Health Department who is designated by the Health Officer to administer this code.
- 1-2.3 Board of County Commissioners: the Board of County Commissioners of Douglas County, Kansas.
- 1-2.4 Board of Health: the Lawrence-Douglas County Health Board.

- 1-2.5 Health Officer: the legally appointed Health Officer of Douglas County or his/her duly authorized representative.
- 1-2.6 KDHE: the Kansas Department of Health and Environment.
- 1-2.7 Local Health Department: the Lawrence-Douglas County Health Department; also referred to herein as "Health Department".
- 1-2.8 Person: any individual, association, firm, partnership, corporation or government entity.
- 1-2.9 Premises: any one or more lots or tracts of land, including all buildings, structures, or facilities located thereon.
- 1-2.10 Sanitary Code: rules, standards and regulations adopted by the county designed to minimize or control those environments and environmental conditions that may adversely affect the health and well being of the public. Such environments and environmental conditions may include but are not restricted to: wastewater and wastewater disposal; water supply; food and food handling. Whenever the term "code" is used herein, such reference shall be to the Sanitary Code of Douglas County, Kansas.

SECTION 3 ADMINISTRATIVE POWERS AND PROCEDURES

- 1-3.1 Right of Entry. The Health Officer or his/her authorized representative may, at any reasonable time, enter upon, examine and/or survey all such premises, establishments and buildings as he/she shall deem necessary for the enforcement of this code. In the event that the owner or person lawfully in control of the premises refuses to consent to such entry, then, upon application by the Health Officer or his/her authorized representative, any court of competent jurisdiction shall issue an ex parte order requiring the owner or person lawfully in control of the premises to permit entry upon the premises and permitting the Health Officer, when accompanied by the county sheriff, to enter forcibly upon the premises and conduct the examination and/or survey.
- 1-3.2 Permit and License.
- a. Applications for Permits and Licenses. All persons required by this code to obtain a permit or license shall make application for such permit or license to the Health Department on standard forms provided for that purpose.
 - b. Issuance of Permit or License. After receipt of an application for a permit or license required by this code, the Health Officer shall begin such investigations and inspections as he/she shall deem necessary to determine whether the permit or license should be issued or denied, and shall issue or deny the permit or license within a reasonable period of time, depending upon information and data requested. If the permit or license is denied, the Health Officer shall send the applicant a written notice with the reasons for denial stated thereon.
 - c. Permit Non-transferable. No permit or license required by this sanitary code shall be transferable, nor shall any fees required and paid therefore be refunded.
 - d. Errors and Omissions.
 - 1) The issuance of a permit shall not prevent the Health Department from thereafter requiring the correction of errors in plans and specifications or from preventing construction activity being carried on thereunder when such activity would be in violation of this code or of any other code or resolution or from revoking any permit or license when issued in error.
 - 2) The Health Department may, in writing, suspend or revoke a permit issued under provisions of this code whenever the permit is issued in error or on the basis of incorrect information provided by the applicant.
 - e. Standard Fees. For the purpose of defraying all or part of the costs of administration of this code, the Lawrence-Douglas County Health Board shall establish a schedule of fees for all permits and licenses required by the code, payable upon submission of the application for such permit or license.
- 1-3.3 Notices, Orders, Appeals.
- a. Notice of Violations. Whenever the Health Officer determines that there has been, or is likely to be, a violation of any provisions of this code, he/she shall give notice of such alleged violation. The notice:
 - 1) Shall be in writing;
 - 2) Shall identify the code violation and the factual basis therefore;

- 3) Shall specify necessary corrective action;
- 4) Shall specify a reasonable period of time for performance of any corrective action and/or work required by the notice; and
- 5) Shall be properly served upon the owner or occupant of the premises; provided, that such notice shall be deemed properly served upon such owner or occupant when a copy thereof has been sent by registered or certified mail to the last known address of the owner or occupant as identified on the latest county tax rolls. If properly addressed and mailed, the failure of an owner or occupant to actually receive or sign for receipt of such notice shall not affect the validity of service of such notice. The failure of the Health Officer to serve such a notice upon the owner or occupant shall not be a defense to any criminal prosecution for violation of any provision of this code.

- b. Request and Hearing for Review of Notices and Decisions; Variances. Any person aggrieved by any notice or decision by the Health Officer under the provisions of this sanitary code, or aggrieved by the strict application of specific provisions hereof, may request, and shall be granted, a hearing on the matter before the Board of Health; provided that if such request is to review a notice or decision by the Health Officer, such person shall file the request with the Board of Health within ten working days after the date of issuance of the notice or decision. For good cause, the Board of Health may grant extensions to the ten day request period. Any request for hearing shall be in writing and set forth the grounds upon which the request is made. Upon receipt of such request, the Board of Health shall set a time and place for such hearing, and shall provide written notice thereof to the requestor. At such hearing, the requestor shall be given an opportunity to be heard and to show why such notice or decision should be modified or withdrawn, or why a variance or waiver of the strict application of specific provisions hereof should be granted. After such hearing, the Board of Health may sustain, modify, or withdraw the notice or decision. In addition, the Board of Health may grant a variance or waiver of the strict application of specific terms of this code in cases in which it is impossible or impractical to strictly comply with such terms and the variance or waiver will not undermine the health, safety, comfort and general welfare of the people of Douglas County, Kansas. The Board of Health shall notify the requestor of its decision in writing. The decision of a majority of the Board of Health on such appeals shall be final, with no right of appeal to the Board of County Commissioners. Any persons aggrieved by the final decision of the Board of Health may appeal such decision to the district court in the same manner that final decisions of the Board of County Commissioners are appealed.
- c. Emergency Orders. Whenever the Health Officer finds that an emergency exists which requires immediate action to protect the public health, he/she may, without notice or hearing, issue an order reciting the existence of such an emergency and require that such action be taken as he/she may deem necessary to meet the emergency, including the suspension of the permit. Notwithstanding any other provisions of this code, such order shall be effective immediately and shall be enforceable in Douglas County District Court.

1-3.4 Records, Permit Applications. Applications for permits or licenses required by this code shall be filed with the Health Department.

1-3.5 Disclaimer of Liability. This code shall not be construed or interpreted as imposing upon the County or any city adopting this code its officials or employees (1) any liability or responsibility for damages to any property; or (2) any warranty that any system, installation or portion thereof that is constructed or repaired under permits and inspections required by this code will function properly. In addition any employee charged with the enforcement of this code, acting in good faith and without malice in the discharge of his or her duties, shall not thereby be personally liable and is hereby relieved from personal liability for damage that may occur to any person or property as a result of any act required by this code in the discharge of his or her duties.

1-3.6 Separability. No decision of a Court of competent jurisdiction declaring any section, subsection, paragraph, sentence, clause or phrase of this code invalid, shall affect the remaining

portion of this code, which shall remain in full force and effect; and to this end the provisions of this code are hereby declared to be severable and shall be presumed to have been adopted knowing that the part of section declared invalid would be so declared.

- 1-3.7 Penalties and Enforcement Procedures. Any person who shall willfully violate any provision of this code, shall be subject to the penalties provided for such violation pursuant to K.S.A. 19-3707. Each day's violation shall constitute a separate fineable offense. In addition, the Health Department is hereby authorized to apply to the District.

SANITARY CODE

DOUGLAS COUNTY, KANSAS

CHAPTER 2 CONVENTIONAL, ALTERNATIVE, EXPERIMENTAL, AND INNOVATIVE ON-SITE SEWAGE MANAGEMENT SYSTEMS

SECTION 1 DEFINITIONS

In addition to the definitions provided in Chapter 1 of this code, the words, terms and phrases listed below, for purposes of this Chapter 2, are defined as follows:

- 2-1.1 Absorption Field: a configuration of on-site trenches installed to absorb sewage effluent from a septic tank or other sewage solids removal device.
- 2-1.2 Absorption Pit: a pit or hole in which gravel is placed, which receives sewage effluent.
- 2-1.3 Absorption Trench: a trench that is laid to convey and distribute septic tank effluent.
- 2-1.4 Alternative On-Site Sewage Management System: any on-site sewage management system which has been approved by the Health Department, and has proven reliability and performance in field use, but which differs in design or operation from approved conventional septic tank and absorption-field systems.
- 2-1.5 Approval or Approved: accepted or acceptable by the Health Department in accordance with applicable specifications stated herein or with additional criteria accepted by the Department.
- 2-1.6 Available Sewer: any Public Sewer within 200 feet of a building which is permitted by the owner of the public sewer to be connected to the public sewer system.
- 2-1.7 Buildable Lot: any lot, parcel, or tract of land which has been determined by the Douglas County Zoning and Codes Department to meet all requirements necessary for issuance of a building permit.
- 2-1.8 Building Sewer: that part of the piping of a drainage system beyond the building which receives and conveys liquid wastes to a Public Sewer, private sewer, on-site sewage management system or other disposal system.
- 2-1.9 Chamber System: an absorption field that utilizes vaulted plastic chambers rather than gravel.
- 2-1.10 Cistern: a container or receptacle utilized to contain potable water delivered from a public water supply for household domestic uses. To be approved by the Health Department, cisterns shall have a minimum capacity of 1,000 gallons and meet minimum standards for material, design and construction.
- 2-1.11 Composting Toilet: a biological composting unit used for the disposal of human excreta.
- 2-1.12 Conventional On-Site Sewage Management System: a system that includes a septic tank, absorption field, and all other elements intended to be used for management and disposal of sewage on-site.
- 2-1.13 Domestic Sewage: sewage originating primarily from kitchen, bathroom, and laundry sources, including waste from food preparation, dishwashing, garbage-grinding, toilets, baths, showers, and sinks.
- 2-1.14 Experimental or Innovative On-Site Sewage Management System: any on-site sewage management system which has been approved by the Health Department and is installed for testing and observation.
- 2-1.15 Floodplain: the 100-year Floodplain.
- 2-1.16 Grade: the ratio of vertical drop of pipe invert, trench bottom, or ground surface to the horizontal distance transversed.
- 2-1.17 Grease Trap: a device that captures grease in sewage and from which the grease may be removed for proper disposal.
- 2-1.18 Health Department: the Lawrence-Douglas County Health Department.
- 2-1.19 Industrial or Commercial Wastes: any wastes produced as a by-product of any industrial or commercial process or operation, other than domestic sewage.

- 2-1.20 Installer License: an annual license issued by the Health Department authorizing an individual to install, construct, repair, or alter on-site sewage management systems in Douglas County, Kansas.
- 2-1.21 KDHE: the Kansas Department of Health and Environment.
- 2-1.22 Lagoon or Sewage Lagoon: an artificial pond designed to exclude surface water and receive raw sewage through a submerged sewer for biological decomposition.
- 2-1.23 Lateral Rock: washed gravel or washed crushed stone ranging in size from three-fourths (3/4) inch to two (2) inches in diameter (p. 12, KDHE Bulletin 4-2, or as amended).
- 2-1.24 Lot: the smallest basic portion of a subdivision or other tract of land, normally intended to be developed and transferred individually.
- 2-1.25 Multi-Family Building: any building intended to be occupied as living quarters by more than one family.
- 2-1.26 Non-Public Water Supply: all water supplies for domestic uses that do not meet the definition of Public Water Supply.
- 2-1.27 Non-Residential Building: any building intended to be utilized for business, religious, or commercial purposes, which is not intended to be occupied by one or more persons as living quarters.
- 2-1.28 On-Site Sewage Management System: a conventional, alternative, experimental, or innovative sewage disposal system which serves a single family residential building or a single non-residential building.
- 2-1.29 Package Plant: an approved watertight structure installed underground to receive, agitate and aerate sewage from a building sewer, effecting separation and organic decomposition of sewage solids and discharging effluent to an absorption field.
- 2-1.30 Private Water Supply: any water supply line which is privately owned and not owned by a public water supply.
- 2-1.31 Pit Privy: an enclosed structure having a seat with one or more holes over an earthen pit, serving as an outdoor toilet, which is not connected to a water supply or an absorption field.
- 2-1.32 Public Water Supply: a system for delivery to the public of piped water for human consumption that has at least ten (10) service connections or regularly serves at least twenty-five (25) individuals daily at least sixty (60) days out of the year. This term includes any source, treatment, storage, or distribution facilities used in connection with the system.
- 2-1.33 Public Sewer: any public or community sewerage system for collection, treatment and disposal, including sewers, treatment plants, pumping stations, force mains and all other elements owned, operated or managed by a public entity (including agents thereof) and serving more than one residential premises.
- 2-1.34 PVC: polyvinyl chloride.
- 2-1.35 Sanitary Privy: a covered facility with a water-tight vault designed to receive, store and provide treatment for periodic removal of non-water carried wastes from the human body.
- 2-1.36 Septic Tank: an approved watertight structure installed underground to receive sewage from a building sewer, effecting separation and organic decomposition of sewage solids and discharging effluent to an absorption field.
- 2-1.37 Sewage Holding Tank: a watertight receptacle used to contain domestic sewage discharged from a building which has a water supply and does not discharge to an On-Site Sewage Management System or Public Sewer.
- 2-1.38 Sewage Vault: a watertight receptacle used to contain sewage generated from a building which does not have a water supply and does not discharge to an On-Site Sewage Management System or Public Sewer.
- 2-1.39 Single Family Residential Building: any building intended to be occupied by one family as living quarters.
- 2-1.40 Subdivision Regulations: the Lawrence-Douglas County Subdivision Regulations.
- 2-1.41 Toilet: a sanitary fixture meeting Health Department and plumbing code requirements for receipt and conveyance of human body wastes.
- 2-1.42 Water Supply Main: any water line, including the water meter, which is owned by a public water supply.

2-1.43 Water Well: any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed when the intended use of such excavation is for the location, diversion, artificial recharge or acquisition of groundwater.

SECTION 2 DISPOSAL OF DOMESTIC SEWAGE

2-2.1 No person shall urinate or defecate in a public place other than in a toilet or other disposal receptacle approved by the Health Department. Flush toilets must be connected to a public sewer, an approved on-site sewage management system, or an approved sewage lagoon. Privies must meet requirements of the Health Department as to design and installation in lieu of a flush toilet and must be specifically approved by the Health Department.

2-2.2 All sinks, lavatories, garbage disposals, dishwashers, clothes washing machines, shower baths, bathtubs, basins and similar plumbing fixtures or appliances shall be connected to a public sewer, an approved on-site sewage management system, or an approved sewage lagoon.

2-2.3 Foundation drain water or other non-sewage or surface water must not go into the septic tank or on-site sewage management system. Only domestic sewage shall be permitted to discharge to an approved on-site sewage management system.

2-2.4 No household, industrial or commercial wastes shall be discharged into any watercourse, impoundment, storm sewer or public thoroughfare. The discharge of sewage into cesspools, absorption pits, abandoned wells, cisterns, streams, or upon the surface of the ground shall be prohibited. In no case shall treated or untreated sewage, or the effluent from a septic tank or on-site sewage management system, be permitted to drain directly or indirectly into a ditch or stream, nor shall it be allowed to surface or run or drain across any adjacent land.

2-2.5 In the event that a failure of an on-site sewage management system occurs and it is determined by the Health Department that the system cannot be repaired, then either connection to a public sewer shall be made or a new approved on-site sewage management system shall be installed.

2-2.6 Where no public sewer is available or where conventional on-site sewage management is not possible, experimental, innovative, or alternative systems may be considered for approval by the Health Department.

2-2.7 On-site sewage management systems shall be maintained in sanitary condition by regular maintenance and/or repair.

2-2.8 No two or more residential and/or non-residential buildings shall be connected to the same on-site sewage management system without written approval from the Health Department or KDHE.

2-2.9 All onsite wastewater systems shall be designed, constructed and operated in accordance with standards set forth in KDHE Bulletin 4-2 "Minimum Standards for Design and Construction of Onsite Wastewater Systems" published March, 1997, as amended, by KDHE and Kansas State University Agricultural Experiment Station and Cooperative Extension Service. KDHE Bulletin 4-2 is hereby adopted by reference and is included herein as an Appendix to this Code.

SECTION 3 TOILETS

2-3.1 Every newly constructed residential building shall be provided with at least one flush toilet in accordance with the provisions of this regulation.

2-3.2 Flush toilets shall at all times be provided with sufficient water and pressure to provide adequate flushing.

2-3.3 Composting toilets or electrically incinerating toilets may be approved by the Health Department on an individual basis only if the use of such devices does not create a public health nuisance.

SECTION 4 CONNECTION TO SEWER

2-4.1 The owner, lessee or agent thereof of any building, residence or other facility designed or used for human occupancy or congregation, shall provide on the premises a system to dispose of the sewage generated within the building, residence or other facility.

2-4.2 If a public sewer is available and a new building is being constructed then the building sewer shall be connected to the available sewage system.

2-4.3 A public sewer shall be considered available if it is within two hundred (200) feet of the building, and connection to the sewerage system is permitted by the owner of the available public sewerage system.

2-4.4 When a public sewer has become available to premises served by an on-site sewage management system and failure of the on-site sewage management system occurs, the owner, lessee or agent shall be required to connect properties affected to the available public sewer system within 30 days.

SECTION 5 SEWAGE CONDUITS FOR ON-SITE SEWAGE MANAGEMENT SYSTEMS

2-5.1 Size of sewage conduits. Sewage conduits connecting component parts of on-site sewage management systems shall be a minimum of four (4) inches in diameter.

2-5.2 Materials. All pipe and fittings used in sewage conduits and/or in absorption fields shall meet nationally-recognized standards for their designated use, such as standards published by the American Society for Testing and Materials or the National Sanitation Foundation, and shall have been approved by the Health Department for use in on-site sewage management systems. Sewage conduits under driveways or similar areas of load or impact shall be of material capable of withstanding maximum anticipated loads. All perforated sewer pipe shall be constructed of PVC and shall be marked to indicate it meets or exceeds a three thousand (3,000) pound "crush test" rating. All non-perforated sewer pipe shall be constructed of PVC. All non-perforated sewer pipe from the building to the septic tank, and the first ten (10) feet exiting the septic tank, shall be marked to indicate it meets or exceeds a Schedule 40 pipe or heavier (p. 8, KDHE Bulletin 4-2, or as amended). All non-perforated sewer pipe beyond that point shall be marked to indicate it meets or exceeds an SDR-35 or three thousand five hundred (3,500) pound "crush test" rating.

2-5.3 Construction. Sewage conduits (other than perforated pipe used in absorption fields) shall be installed with sealed, watertight, root-resistant joints and shall be laid on a firm foundation. This shall not be subject to settling, and shall be installed at a grade not less than one-eighth (1/8) inch per foot. All pipe from the structure to the absorption field shall be laid "bells up" if bell-and-spigot pipe is used.

2-5.4 Cleanouts. Cleanouts shall be placed outside the building at the junction of the building drain and building sewer and at intervals not to exceed one hundred (100) feet between the building and septic tank.

2-5.5 The building sewer shall not cross above or below any private water line and shall be a **minimum** horizontal distance of ten (10) feet from a private water line (p. 4, KDHE Bulletin 4-2, or as amended), unless the building was constructed prior to October 10, 1997. The building sewer shall be covered by a minimum of twelve (12) inches of soil.

2-5.6 The building sewer shall not cross above or below any public water main and shall be a minimum horizontal distance of twenty five (25) feet from any public water line or water meter (p. 4, KDHE Bulletin 4-2, or as amended), unless written approval is granted by the public water supplier.

SECTION 6 ON-SITE SEWAGE MANAGEMENT SYSTEMS

2-6.1 Permits Required

- a. No person shall be issued a building permit without having first obtained from the Health Department a permit to construct an on-site sewage management system. A fee shall be charged by the Health Department for the on-site sewage management system permit.
- b. No person shall construct, repair or alter an on-site sewage management system without obtaining a construction permit for such purpose from the Health Department. No permit for the construction, repair or alteration of an on-site sewage management system shall be issued until the Health Department has inspected and approved the site and the proposed location and design of the on-site sewage management system. A fee shall be charged by the Health Department for the service. No on-site sewage management system constructed, altered or repaired may be covered totally or in part until it has been inspected and approved by the Health Department. The system may be inspected by the Health Department at any stage of construction.

Permits for the construction, repair, or alteration of an on-site sewage management system shall be valid for two years from the date issued.

- c. All applicants, or agents for the applicants, will be required to sign an application form to acknowledge the on-site sewage management system must be inspected and installed according to the approved plan and requirements of the Douglas County Sanitary Code.
- d. No house or structure shall be occupied or used until a final inspection shows the on-site sewage management system has been approved by the Health Department.
- e. An owner or agent for the owner may request an on-site review by the Health Department of a lot without obtaining a permit to construct the system. A fee shall be charged for this consultation service.
- f. No portion of an on-site sewage management system shall be located within the floodplain for any land divisions after January 1, 2007 [Subdivision Regulation 20-811 (d) (2) (iii), p. 57, or as amended].
- g. For individual lots, tracts, or parcels which contain three (3) or more adjoining acres but less than five (5) adjoining acres, no permit for the construction of a new on-site sewage management system shall be issued after the effective date of this Sanitary Code before a water supply is approved by the Health Department. Approval of the water supply shall include one of the following requirements:
 - 1) A letter of confirmation has been issued by the appropriate public water supply district that a water meter has been purchased for the property. [Subdivision Regulation 20-811 (e) (1) p. 58, or as amended].
 - 2) A permit has been issued by the Health Department for a private cistern to be constructed. Cisterns shall not be installed on lots, tracts, or parcels divided on or after January 1, 2007, within the City of Lawrence Urban Growth Area (a public water supply is required). [Subdivision Regulation 20-811 (e) (1) p.58, or as amended].
- h. For individual lots, tracts, or parcels which contain five (5) or more adjoining acres, no permit for the construction of a new on-site sewage management system shall be issued after the effective date of this Sanitary Code before the water supply is approved by the Health Department. Approval of the water supply shall include one of the following requirements:
 - 1) A letter of confirmation has been issued by the appropriate public water supply district that a water meter has been purchased for the property. [Subdivision Regulation 20-811 (e) (1) p. 58, or as amended].
 - 2) A permit has been issued by the Health Department for a private water well to be constructed. Lots, tracts, or parcels divided after January 1, 2007, and are located within the City of Lawrence Urban Growth Area, shall use private water wells for irrigation purposes only and the wells shall not be connected to a residential or commercial building (a public water supply is required) [Subdivision Regulation 20-811 (e) (1) p. 58, or as amended].
 - 3) A permit has been issued by the Health Department for a private cistern to be constructed. Cisterns shall not be installed on lots, tracts, or parcels divided on or after January 1, 2007, within the City of Lawrence Urban Growth Area. [Subdivision Regulation 20-811 (e) (1) p. 58, or as amended].

2-6.2 Installer License Required

- a. No person shall install, construct, repair, or alter an on-site sewage management system without having first obtained an annual installer license from the Health Department. An annual fee shall be charged by the Health Department for the license.
- b. An installer license may be issued to a commercial contractor or homeowner. A homeowner shall install, repair, or alter an on-site sewage management system located on his/her property only.
- c. A licensed installer shall be on site at all times when an on-site sewage management system is being installed, constructed, repaired, or altered.

- d. The licensed commercial contractor shall be responsible for informing the property owner regarding recommended maintenance of an on-site sewage management system that the contractor installs, repairs, or alters.
- e. No person shall receive an installer license from the Health Department without having first passed a written examination. A minimum of seventy (70) percent of the answers on the written examination shall be answered correctly to receive the installer's license.
- f. Written examinations may be taken at any time during the calendar year. Any person wishing to take a written examination may do so by making an appointment with the Health Department. There will be a test fee for taking the examination.
- g. Annual licenses shall expire on December 31 of the calendar year in which they are issued. The annual license fee shall be the same for any fraction of the year as for the entire year.
- h. Installer License Revocation. A license may be revoked for continued failure to comply with the requirements of this Sanitary Code.

2-6.3 Area Requirements

- a. Residential Parcels, Tracts, or Lots. For the unincorporated areas of Douglas County, Kansas, an individual on-site sewage management system shall not be constructed upon any parcel, tract, or lot of less than:
 - 1) Three (3) adjoining acres when a public water supply or cistern is provided. Any land divided after January 1, 2007, which is located within the floodplain shall not be counted in calculating lot area for the purpose of meeting minimum lot area requirements for on-site sewage management systems [Subdivision Regulation 20-811 (d) (2) (ii), p. 57, or as amended]. Cisterns shall not be installed on lots, tracts, or parcels divided on or after January 1, 2007, within the City of Lawrence Urban Growth Area [Subdivision Regulation 20-811 (e) (1), p.58, or as amended].
 - 2) Five (5) adjoining acres when a water well is provided. Any land divided after January 1, 2007, which is located within the floodplain shall not be counted in calculating lot area for the purpose of meeting minimum lot area requirements for on-site sewage management system use [Subdivision Regulation 20-811 (d) (2) (i), p.57, or as amended].

New private water wells constructed after the effective date of this Sanitary Code, which are located within the City of Lawrence Urban Growth Area, shall be installed for irrigation purposes only, and shall not be connected to any residential or commercial building [Subdivision Regulation 20-811 (e) (1), p. 58, or as amended].

 - 3) The exemptions to this requirement are when:
 - a) A division of property which is less than the above stated minimums has occurred and has been filed with the Douglas County Register of Deeds prior to October 10, 1997.
 - b) A property is exempt under Section 21-4.07 of the Douglas County Zoning Regulations.
 - c) Any lands divided prior to January 1, 2007, shall not be required to meet the floodplain requirements [Subdivision Regulation 20-801 (d)(2)(ii), p. 7, or as amended].
- b. Non-Residential Parcels, Tracts, or Lots. For the unincorporated areas of Douglas County, Kansas, an individual on-site sewage management system shall not be constructed upon any parcel, tract, or lot of less than:
 - 1) Three (3) adjoining acres when a public water supply or cistern is provided. Any land divided after January 1, 2007, which is located within the floodplain shall not be counted in calculating lot area for the purpose of meeting minimum lot area requirements for on-site sewage management systems [Subdivision Regulation 20-811 (d) (2) (ii), p. 57, or as amended]. Cisterns shall not be installed on lots, tracts, or parcels divided on or after January 1, 2007, within the City of Lawrence Urban Growth Area [Subdivision Regulation 20-811 (e) (1), p. 58, or as amended].
 - 2) Five (5) adjoining acres when a water well is provided. Any land divided after January 1, 2007, which is located within the floodplain, shall not be counted in

calculating lot area for the purpose of meeting minimum lot area requirements for on-site sewage management system use [Subdivision Regulation 20-811 (d) (2) (i), p. 57, or as amended].

New private water wells constructed after the effective date of this Sanitary Code, which are located within the City of Lawrence Urban Growth Area, shall be installed for irrigation purposes only, and shall not be connected to any residential or commercial building [Subdivision Regulation 20-811 (e) (1), p. 58, or as amended].

3) The exemptions to this requirement are when:

- a) A division of property which is less than the above stated minimums has occurred and has been filed with the Douglas County Register of Deeds prior to October 10, 1997.
- b) A property is exempt under Section 21-4.07 of the Douglas County Zoning Regulations.
- c) Any lands divided prior to January 1, 2007, shall not be required to meet the floodplain requirements [Subdivision Regulation 20-801 (d)(2)(ii), p. 7, or as amended].

4) Reserve area for absorption field required. A reserve area for a future secondary absorption field shall be required for all new non-residential building sites constructed after the effective date of this Sanitary Code. The reserve area shall be the same size as the area required for the primary absorption field.

2-6.4 Data Requirements

a. Residential. The following shall be submitted to and accepted by the Health Department before issuance of a permit to construct an on-site sewage management system:

- 1) An application form including the following:
 - a) Name, address and phone number of applicant and owner.
 - b) Location of building site, including legal description with section, township and range.
 - c) Number of bedrooms in the home.
- 2) A drawing of the lot or site, showing:
 - a) Overall dimensions of the lot.
 - b) Location of buildings, driveways and geographical features near the proposed absorption field.
 - c) Location and type of all water supplies, and location of all water service lines.
 - d) Layout of entire on-site sewage management system, including septic tank, absorption field, interconnecting lines, and / or any other components.
 - e) Location of foundation footing or any other non-sewage drain(s).
 - f) An arrow indicating North direction.
- 3) Other supportive data or information required by the Health Department.
- 4) A letter from the Douglas County Zoning and Codes Department which states that the lot, tract or parcel is a Buildable Lot.
- 5) For lands divided after January 1, 2007, a copy of a Certificate of Survey which clearly displays what acreage, if any, is included within the floodplain and what acreage, if any, is included outside the floodplain [Subdivision Regulation 20-811 (d) (2) (i) & (ii), p. 57, or as amended].

b. Non-Residential. The following data shall be submitted to and accepted by the Health Department prior to issuance of a permit to construct an on-site sewage management system:

- 1) An application form including the following:
 - a) Name, address and phone number of applicant and owner.
 - b) Location of building site, including legal description with section, township and range.
- 2) A site plan of the entire property under development showing:
 - a) Overall dimensions of the lot, area in square feet.
 - b) Location of buildings, structures, driveways, parking, access roads, loading areas, receptacle locations, buffers, public and private easements and any

- geographical features near the proposed on-site sewage management system.
- c) Location and type of all water supplies and location of all water service lines.
 - d) Layout of entire on-site sewage management system, including septic tank, absorption field, interconnecting lines, and/or any other components.
 - e) Location of foundation footing or any other non-sewage drain(s)
 - f) An arrow indicating North direction.
- 3) Other supportive data or information required by the Health Department, including but not limited to size of building, type of establishment, anticipated water usage and peak daily sewage flow, whether the sanitary facilities are for private and/or public use, an estimate of the maximum number of customers, employees, etc., all water-using equipment or appliances, the specific use of the facilities including identification of any industrial or commercial wastes that may be discharged from the building, existing and proposed topography, and proposed drainage.
- 4) A letter from the Douglas County Zoning and Codes Department which states that the lot, tract or parcel is a Buildable Lot.
- 5) For lands divided on or after January 1, 2007, a copy of a Certificate of Survey which clearly displays what acreage, if any, is included within the floodplain and what acreage, if any, is included outside the floodplain [Subdivision Regulation 20-811 (d) (2) (i) & (ii), p. 57, or as amended].

2-6.5 Field Data Requirements

- a. **Water Table Borings.** Borings to determine groundwater elevation in low areas may be required by the Health Department. Borings shall be made to a minimum depth of seven (7) feet. Water table elevations shall not be recorded until sufficient time has elapsed for stabilization of groundwater (such stabilization in clay soils may require several hours or overnight). Location, identification number and depth to water table shall be recorded on the plat or site plan which may indicate topography, if required. Other records of water table elevation, including seasonal peaks, may be submitted or required.
- b. **Rock Borings.** Where surface outcroppings or subsurface rock or hard-pan exist or are suspected, a sufficient number of borings to a minimum depth of four (4) feet may be required by the Health Department to determine if such conditions may interfere with installation, performance or repair of the proposed on-site sewage management system. Boring locations and data shall be recorded by number on the plat or site plan which may indicate topography, if required.
- c. Evidence of the presence of water in the borings shall negate the use of conventional on-site sewage management systems in that area. Innovative or alternative systems may be reviewed on an individual basis. Evidence of rock in the borings may negate the use of a conventional on-site sewage management system in that area.
- d. Soil or groundwater test holes for an on-site sewage management system shall be required, reviewed, and approved by the Director of the Health Department [Subdivision Regulation 20-808 (d) (5) (ii), p. 35, or as amended]. Soil analysis and other field tests may be required. The number, depth and location shall be determined by the Health Department. If test holes are left unattended, they shall be "benched" for safety reasons (see Figure A).
- e. The location of the house must be staked or flagged and the absorption field area must be staked or flagged.

SECTION 7 SEPTIC TANKS

- 2-7.1 All septic tanks shall be designed and constructed according to the specifications set forth by the Kansas Department of Health and Environment's Bulletin 4-2.
- 2-7.2 There shall be no permanent structure (patio, building, driveway, etc.) over the tank, lateral or other part of an on-site wastewater system (p. 6, KDHE Bulletin 4-2, or as amended).
- 2-7.3 All abandoned or unused septic tanks, cesspools, seepage pits, or other holes that have received wastewater shall be emptied and plugged following procedures described in K-State Research and Extension bulletin MF-2246 (p. 6, KDHE Bulletin 4-2, or as amended).

- 2-7.4 Compacting of the absorption field during placement of the septic tank shall be avoided (p. 9, Bulletin 4-2, or as amended).
- 2-7.5 Where natural soil is not suitable, tanks shall be placed on a bed of at least four (4) inches of sand, pea gravel, or crushed non-corrosive granular material. Material shall be no larger than two (2) inches in diameter (p. 9, KDHE Bulletin 4-2, or as amended).
- 2-7.6 Septic tanks shall be watertight (p. 7, KDHE Bulletin 4-2, or as amended).
- 2-7.7 Special Considerations for Fiberglass, Fiberglass Reinforced Polyester, and Polyethylene Tanks (p. 9, KDHE Bulletin 4-2, or as amended):
- All tanks shall be sold and delivered by the manufacturer completely assembled.
 - Tanks shall be structurally sound and support external forces as specified above when empty and internal forces when full. Tanks shall not deform or creep resulting in deflection more than 5 percent in shape as a result of loads imposed.
 - Tanks and all below grade fittings and connections shall be water tight.
 - Tanks shall be placed on a bed of at least four (4") inches of sand, pea gravel, or crushed non-corrosive granular material. Material shall be no larger than two (2") in diameter (p. 9, Bulletin 4-2, or as amended).
 - Plastic tanks shall not be used in high or seasonally high water tables (p. 10, KDHE Bulletin 4-2, or as amended).
 - Fiberglass or plastic septic tanks shall be installed according to the manufacturer's specifications to ensure that the installation will not void the manufacturer's warranty.
- 2-7.8 Location. The septic tank shall be located as set forth in Table 1. No septic tank shall be installed after the effective date of this Sanitary Code within:
- Ten (10) feet of any house or other building.
 - Twenty-five (25) feet of any public water main, water meter (p. 4, KDHE Bulletin 4-2, or as amended), or in-ground swimming pool.
 - Fifty (50) feet of any private water well, cistern, surface water course, creek bank, stream, pond, river, or lake (p. 4, KDHE Bulletin 4-2, or as amended).
 - One hundred (100) feet of any public water supply well or suction line (p. 4, KDHE Bulletin 4-2, or as amended).
 - Any floodplain, unless the lot, parcel or tract of land was divided prior to January 1, 2007 [Subdivision Regulation 20-811 (d) (2) (iii) p. 57, or as amended].
 - The Health Department, after site inspection, may stipulate greater separation than cited herein, due to adverse on-site conditions including location of a well on-site or nearby, site configuration or structural placement, sub-surface soil characteristics, and/or groundwater interference.
- 2-7.9 Capacity. The minimum liquid capacity of septic tanks shall be sized as follows (p. 6, Table 7, KDHE Bulletin 4-2, or as amended):
- 1 to 3 bedrooms: 1,000 gallons
 - 4 bedrooms: 1,200 gallons
 - 5 bedrooms: 1,500 gallons
- 2-7.10 Foundation and Backfill. Septic tanks shall be constructed or installed level on a foundation that will prevent settling. Where natural soil is not suitable, tanks shall be placed on a bed of at least four (4) inches of sand, pea gravel, or crushed non-corrosive granular material. Material shall be no larger than two (2) inches in diameter (p. 9, KDHE Bulletin 4-2, or as amended). Backfill shall be free of voids, stumps, broken masonry or other such materials. The lid of the tank shall be covered with earth.
- 2-7.11 Access and Inspection. Septic tanks shall have an access manhole with twenty (20) inches minimum dimension for each compartment that shall extend to the surface of the ground. When any opening larger than eight (8) inches extends to the surface, that opening shall be child and tamper-resistant. Ways to accomplish this include lids weighing at least sixty-five (65) pounds, locks, or anchors that are not removable without special tools (p. 8, KDHE Bulletin 4-2, or as amended).
- 2-7.12 Inlet Pipe. The inlet invert should be located at least three (3) inches above the liquid level in the tank. A vented inlet tee shall be used to divert the incoming sewage downward. It shall extend at least twelve (12) inches below the liquid level, but the penetration must not be greater than that provided by the outlet device.

2-7.13 Outlet Pipe. The outlet device shall extend eighteen (18) inches below the liquid surface. A vented outlet tee shall be provided.

2-7.14 Sealed. A watertight seal shall be made around the inlet and outlet pipes with a rubber gasket or bonding compound that will adhere both to the concrete septic tank and the exterior surfaces of the inlet and outlet pipes. The lid shall be sealed to the walls of the tank. Any holes in the tank shall be sealed so that the tank is watertight.

2-7.15 The top of the septic tank shall be a maximum of twelve (12) inches from the finished grade (KDHE Bulletin 4-2, p. 7, or as amended).

2-7.16 Septic tanks are illustrated in Figure B.

SECTION 8 ABSORPTION FIELDS

2-8.1 Area Computation. The following criteria shall be used to determine the amount of absorption field required:

a. Single Family Residential Buildings

1) Alternative systems. Alternative systems which have been approved by the Health Department shall be required if either or both of the following conditions are present:

a) Heavy clay: the soil type in the absorption site is a heavy clay of the Leanna, Wabash, or Woodson series (as determined by the USDA Soil Survey of Douglas County), with or without slope; or

b) Slowly permeable soil with level surface area: the soil type in the absorption site is of any slowly permeable soil series (0.2 inches per hour or less, as determined by the USDA Soil Survey of Douglas County) and the undisturbed absorption site has a level surface area.

2) Conventional Septic Tank-Lateral Field Systems

a) Conventional sequential step-down septic tank-lateral field systems may be utilized in sloping, slowly permeable soils except Leanna, Wabash, or Woodson series (as determined by the USDA Soil Survey of Douglas County). The absorption field in those conditions shall be sized as follows:

Number of bedrooms	1	2	3 or more
Square feet of absorption trench	1,200	2,300	2,500
Linear feet of 3' wide trench	400	767	834

b) Conventional septic tank-lateral field systems may be utilized in sloping or level moderately to rapidly permeable soils (as determined by the USDA Soil Survey of Douglas County). The absorption field in those conditions shall be sized as follows:

Number of bedrooms	1	2	3 or more
Square feet of absorption trench	800	1,500	1,800
Linear feet of 3' wide trench	267	500	600

b. Non-Residential Buildings. Requirements for the size of absorption field shall be determined by the Health Department. Professional manuals such as the EPA Design Manual, International Plumbing Code, or the Uniform Plumbing Code may be referred to for guidance to help determine adequate sizing. When expected non-farm water usage exceeds ten thousand (10,000) gallons per month, the owner(s) of the establishment shall construct a dual absorption field system according to Health Department regulations, or construct a commercial lagoon system according to KDHE regulations.

c. Multi-Family Buildings. Requirements for the size of absorption fields which will serve multi-family buildings (i.e., group boarding homes, foster care homes, etc.) shall follow the same sizing requirements as for a single-family residence. When expected non-farm water usage exceeds ten thousand (10,000) gallons per month, the owner(s) of the establishment shall construct a dual absorption field system according to Health Department regulations, or construct a commercial lagoon system according to KDHE regulations.

- d. Existing Buildings. Absorption fields constructed or repaired which serve existing buildings shall follow the same absorption field sizing requirements as newly constructed buildings whenever possible. When site or area constraints will not allow adequate area to accomplish sizing requirements for new construction, then absorption fields shall be sized as large as physically possible to meet the same requirements as that of new construction. All other requirements for septic tank and absorption field construction and installation shall be required as stated within these regulations.
- e. Other. The absorption field size shall be determined by the Health Department based on the anticipated loading, water use, and sewage produced. A minimum of two hundred (200) lineal feet of absorption trench shall be required.

2-8.2 Absorption Field Location Restrictions. Unless otherwise approved by the Health Department, the absorption field shall be located as set forth in Table 1. Unless otherwise approved by the Health Department, no part of an absorption field installed after the effective date of this Sanitary Code shall be located within:

- a. Ten (10) feet of any private water line, septic tank, foundation drain, buried utility line, driveway, property line, or drop-off.
- b. Twenty-five (25) feet of any house or other building, water meter (p. 4, KDHE Bulletin 4-2, or as amended), or public water main.
- c. Fifty (50) feet of any cistern, in-ground swimming pool, surface water course, creek bank, stream, river, pond, or lake (p. 4, KDHE Bulletin 4-2, or as amended).
- d. One hundred (100) feet of any water well.
- e. Absorption fields constructed upon lands divided after January 1, 2007, shall not be installed in the floodplain [Subdivision Regulation 20-811 (d) (2) (iii), p. 57, or as amended], nor where groundwater or adverse geological formations may interfere with the absorption of treated sewage or result in the contamination of groundwater by sewage.
- f. The Health Department may require that a licensed surveyor stake or flag the floodplain [Subdivision Regulation 20-811 (d) (2) (iii), p. 57, or as amended] in areas where it is difficult to determine floodplain locations.
- g. Absorption fields shall not be installed in areas subject to excessive surface water, ponding, or runoff, including but not limited to storm water and discharge from building gutters.
- h. No absorption field, or any portion thereof, shall be placed within any fill material unless such fill material is specifically approved in writing by the Health Department prior to installation of the absorption field. Installation of any absorption field within fill material not approved by the Health Department may be cause for revocation of the on-site sewage management system construction permit.
- i. The Health Department, after site inspection, may require variations of these distances due to adverse conditions relative to topography, subsurface soil characteristics, and/or groundwater sources. No part of the absorption field shall be covered by buildings or pavement or be used for vehicular traffic or parking.

2-8.3 Site Preparation

The area in which the on-site sewage management system is proposed to be constructed shall not have any of the original topsoil removed from the area without specific written approval from the Health Department. Removal of topsoil from the area may be cause for revocation of the on-site sewage management system construction permit.

2-8.4 General Requirements for Design and Construction of Absorption Fields

- a. An absorption trench shall not exceed one hundred (100) feet in length from where it is fed unless specific approval is given by the Health Department.
- b. Absorption trenches shall be between twenty-seven (27) inches and thirty-nine (39) inches in depth.
- c. The trench shall be thirty-six (36) inches wide, unless otherwise specifically approved by the Health Department.

- d. Installation of absorption trenches must be along contour lines that the level trenches of uniform depth can be constructed unless otherwise specifically approved by the Health Department.
- e. There shall be a minimum of twelve (12) inches of earth cover over the lateral rock or chamber system and a maximum of twenty-four (24) inches of earth cover over the lateral rock or chamber system.
- f. Excavation for absorption trenches in wet clay soils and smearing of trench walls and bottoms shall be avoided since reduced permeability may result and approvals may be voided thereby.
- g. The ground surface of the absorption field area shall be so graded as to prevent the accumulation of surface water and to minimize the flow of surface water over the absorption field. Test holes, diverter ditches or flow control devices will be required under some circumstances. It may be necessary to prepare the ground for the absorption field, such as by removal of rocks, trees, or replacement of soil. The Health Department may require that the preparation work for the absorption field be inspected and approved prior to the installation of the absorption field.
- h. There shall be a minimum of four (4) feet between the bottom of the absorption trench and any groundwater table.
- i. There shall be a minimum distance of fifteen (15) feet between absorption trench sidewalls, or eighteen (18) feet between trench centers, unless specifically approved by the Health Department.

2-8.5 General Requirements for Field Layout Methods

- a. Sequential Step-Down or "Overhead" Conventional System. This method is well suited to terrain with a slope. In this system, effluent is not distributed equally to all the absorption trenches. Instead, the trenches are filled sequentially, and diversion to the next trench does not occur until the fluid level in the preceding trench reaches slightly above the top of the rock fill or chamber system.
 - 1) The overhead distribution line must be connected toward the center of each absorption trench, unless specifically approved by the Health Department.
 - 2) The overhead distribution line must be set on a firm foundation of undisturbed earth or compacted earth or sand. Gravel shall not be placed beneath the overhead line.
 - 3) The sequential system is illustrated in Figure C.
- b. Level Field Conventional System. On flat terrain the level field method may be used. When this method is used, all distribution trenches shall be installed level and at the same elevation, shall not exceed one hundred (100) feet in length, and shall be connected at the ends to form a continuous system. A standard tee fitting shall be used to distribute treated sewage. A standard tee fitting shall be used to effect a juncture of the ends of any three distribution lines. The level field method is illustrated in Figure D.

2-8.6 Additional Requirements for Absorption Fields Utilizing Lateral Rock

The following requirements are in addition to all other requirements noted within these regulations.

- a. A fifteen (15) inch depth of three-fourths (3/4) to two (2) inch (p. 12, KDHE Bulletin 4-2, or as amended) washed lateral rock (i.e., aggregate) shall be provided in the bottom of the trench (as detailed in "c" below).
- b. Perforated pipe shall be laid in the center of the lateral rock. Perforations shall be oriented toward the bottom of the trench.
- c. Lateral rock shall be placed under the perforated pipe to a minimum depth of six (6) inches and shall extend the full length of the trench. Five (5) inches of lateral rock shall cover the perforated pipe.
- d. A continuous layer of permeable material shall be placed over the lateral rock before backfilling with the earth cover. The permeable material shall be four (4) to six (6) inches of hay or straw, or another material approved by the Health Department.

2-8.7 Additional Requirements for Absorption Fields Utilizing Chamber Systems

The following requirements are in addition to all other requirements noted within these regulations.

- a. Inspection ports may be required by the Health Department for monitoring purposes.
- b. The end plates of each chamber trench shall be constructed of plastic, made by the manufacturer of the chamber system, and shall be securely fastened to the chambers with screws.
- c. All chamber systems shall be required to have washed lateral rock, hay, straw, or filter fabric placed between the excavated trench and the outside sidewalls of the chamber units to prevent infiltration of soil into the chamber units.
- d. The overhead distribution pipe shall be fed into the top of the chamber (unless otherwise specifically approved by the Health Department) with a standard PVC tee fitting. The PVC tee shall extend downward midway into the depth of the chamber.

2-8.8 Alternative and Experimental On-Site Sewage Management Systems

- a. Consideration of Alternative Systems. Where appropriate, and after thorough assessment of alternatives, the Health Department will consider alternative on-site sewage management systems and/or site modifications for conventional or alternative systems in areas of marginal suitability.
- b. Priorities. Priority consideration will be given to those proposals for alternative sewage disposal systems whose implementation may resolve existing sewage management problems.
- c. Review and Approval of Alternative On-Site Sewage Management Systems. Those desiring to install an alternative on-site sewage management system may be required to submit the following information to the Health Department:
 - 1) Plans and specifications including type and location of site modifications, along with any engineering, laboratory, or field data required.
 - 2) Provisions for a backup system, including reservation of undisturbed space.
 - 3) Any additional information required for complete understanding and decision formulation by the Health Department.If the proposal for the system is approved, those making application will be informed by the Health Department of responsibilities for maintenance and of any monitoring procedures deemed appropriate by the Health Department. Reduction of water usage by installation of water-conserving fixtures and devices may be required.
- d. Experimental and Innovative on-site sewage disposal systems. The Health Department may consider proposals for the use of experimental and innovative on-site sewage management systems for testing and observation.

e. The Health Department may require the alternative, experimental and innovative on-site sewage disposal systems to be designed by a professional engineer and may ask for review of the proposal by KDHE.

f. Maintenance Requirements. Any owners and/or operators of any alternative or experimental on-site sewage management systems permitted after the effective date of this Sanitary Code shall maintain a contract for, at a minimum, the annual inspection of the system and pertinent components and prescribed maintenance with a licensed installer, licensed maintenance technician, or representative of the manufacturer of the system. A copy of the inspection report, along with a report of any corrective actions taken as prescribed by the inspection report, shall be filed with the Health Department within sixty (60) calendar days of the date of inspection.

2-8.9 Grease Traps

- a. Grease Traps Required. Grease traps are neither necessary nor recommended for on-site sewage management systems serving residences, but shall be required for those serving commercial or industrial establishments where it is determined by the Health Department that introduction of grease into the on-site system might adversely affect it.
- b. Grease Trap Design. Grease trap plans and specifications shall be submitted to the Health Department for approval. No human waste shall pass through the grease trap.

No grease trap shall have less than one hundred twenty-five (125) gallons capacity and effluent shall be directed to the septic tank.

- c. Construction. Grease traps shall be located, installed and constructed so that they will reduce the temperature of kitchen wastes to permit congealing of grease. Easy access for cleaning and grease removal shall be provided.

2-8.10 Sewage Lift Pumps

In the event that the sewage generated from a building or residence cannot be plumbed to an absorption field or sanitary sewer by gravity, then a sewage lift pump with the necessary appurtenances as determined by the Health Department may be required. The pump chamber must be sealed, odor proof and watertight.

Section 9 Aeration Systems (Package Plants)

2-9.1 The use of preassembled aeration systems, usually referred to as "package plants," may be approved by the Health Department. When used individually in a residential installation, their volume shall be equal to or greater than that required of a septic tank. The effluent shall be discharged to an absorption field as required for septic tanks. Their flow-through ability must not be affected by a power failure. If the effluent from the package plant is not discharged to an on-site sewage management system, then a permit is required from KDHE before the package plant can be installed.

SECTION 10 OTHER

2-10.1 Cesspools and Absorption Pits. Cesspools and absorption pits shall be prohibited for new or permanent installations.

2-10.2 Portable Toilets. Portable toilets equipped with holding or storage tanks, chemical or otherwise, shall be prohibited except on a temporary basis as determined acceptable by the Health Department. Portable holding tanks serving camping, recreation vehicles, and boats are acceptable.

2-10.3 Sewage Holding Tanks.

- a. Sewage holding tanks shall not be permitted for any newly constructed building after the effective date of this Sanitary Code. Holding tanks shall be permitted only for existing buildings on a case-by-case basis when a health hazard has been determined by the Health Department, and only when it is not possible or feasible to utilize any other type of on-site sewage management system, or connect to any public sewer. A written permit for the use of any sewage holding tank shall be required by the Health Department. The Health Department retains the right to revoke any said written permit at any time.
- b. All sewage holding tanks shall be pumped out by septage waste haulers who have been licensed by the Health Department. The Health Department shall require that the licensed septage waste hauler report in writing to the Health Department each time a sewage holding tank has been pumped out.
- c. All sewage holding tanks shall be a minimum of one thousand five hundred (1,500) gallon capacity, and shall be equipped with an alarm system which alerts the owner and/or operator before the sewage holding tank causes overflow of septage onto the surface of the ground, or backup of septage into the building it serves.

2-10.4 Sewage Vaults

Sewage vaults shall be permitted by the Health Department on a case-by-case basis. Sewage vaults may be permitted for camping or recreational areas. All sewage vaults shall be a minimum of one thousand (1,000) gallon capacity and shall be pumped out by septage waste haulers who have been licensed by the Health Department. A permit shall be required for the construction of a sewage vault. No water supply shall be connected to the sewage vault.

2-10.5 Sanitary Privies

No person, company, or corporation or institution shall excavate, drill, construct or use or permit to be constructed or used any well, pit mine shaft or subsurface excavation for the disposal of untreated or inadequately treated domestic sewage.

SECTION 11 REAL ESTATE TRANSFER OF OWNERSHIP

2-11.1 Whenever ownership is transferred of any property connected to or served by an on-site sewage management system, or lagoon, the Health Department shall inspect the condition of the

- wastewater management system being used, prior to the transfer of ownership. A fee shall be charged to the owner by the Health Department for the inspection.
- 2-11.2 Any on-site sewage management system, or lagoon, that is found to be discharging sewage, and / or creating a public health hazard, shall be repaired or replaced, as determined by the Health Department, and approved within thirty (30) days of discovery.
- 2-11.3 Uncovering of the inspection manhole of the septic tank shall be the responsibility of the owner, and the septic tank shall be inspected by the Health Department prior to the transfer of ownership.
- 2-11.4 The septic tank shall be pumped out by a Licensed Septage Hauler before the transfer of ownership. The owner shall be responsible for this cost.
- 2-11.5 Septic tanks shall be of water-tight design and in good repair.
- 2-11.6 If the property being transferred utilizes a water well as a potable water source, the Health Department shall inspect the water well casing and well seal for compliance with KDHE regulations. A water sample shall be taken by the Health Department and screened for coliform bacteria and nitrate compounds.
- 2-11.7 Any abandoned water well(s) located upon the property shall be plugged by the owner in accordance with KDHE regulations.
- 2-11.8 In the event that the owner, or person paying for the inspection, believes that the inspection or the inspection report was conducted negligently or in a manner that failed to disclose deficiencies, and a claim is made against the Health Department for damages, the liability of the Health Department shall be limited to the cost of the inspection only.

Table 1

Location of On-Site Sewage Management System See 2-8.2 – Absorption Field

Location Restrictions

Minimum Horizontal Distance (Feet) Required

from:	to Septic Tank	to Absorption Field
House or other building	10	25
Private water line (p. 4, KDHE Bulletin 4-2, or as amended)	10	10
Absorption trench	10	—
Septic tank	—	10
Foundation drain	10	10
Buried utility line	10	10
Driveway	10	10
Property line	10	10
Drop-off	10	10
Public water main	25	25
Water meter (p. 4, KDHE Bulletin 4-2, or as amended)	25	25
Cistern	50	50
In-ground swimming pool	25	50

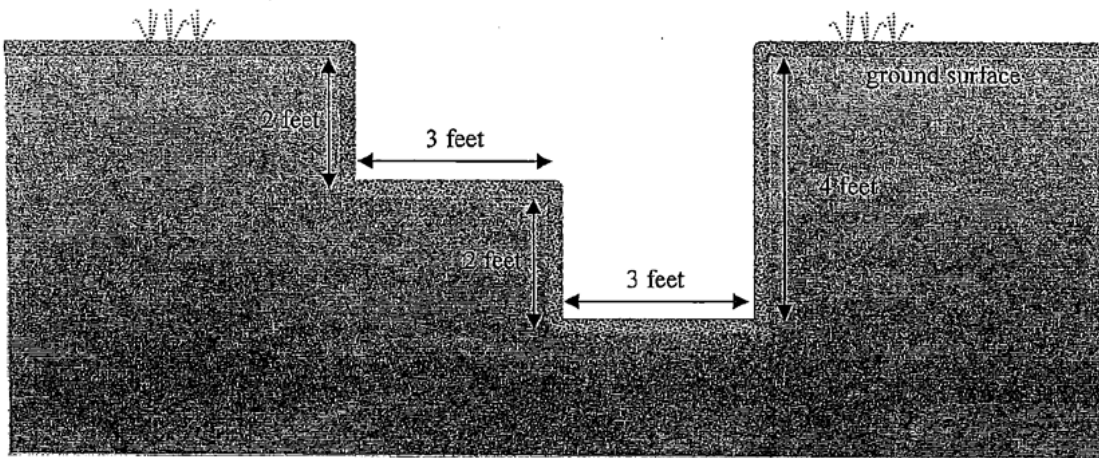
Private water well	50	100
Surface water course, creek bank, stream, river, pond, or lake (p. 4, KDHE Bulletin 4-2, or as amended)	50	50
Public water supply well or suction line (p. 4, KDHE Bulletin 4-2, or as amended)	100	100

Figure A

“Benched” Test Hole

See 2-6.5.d. Field Data Requirements

4-Foot Deep Test Hole for Rock



7-Foot Deep Test Hole for Groundwater

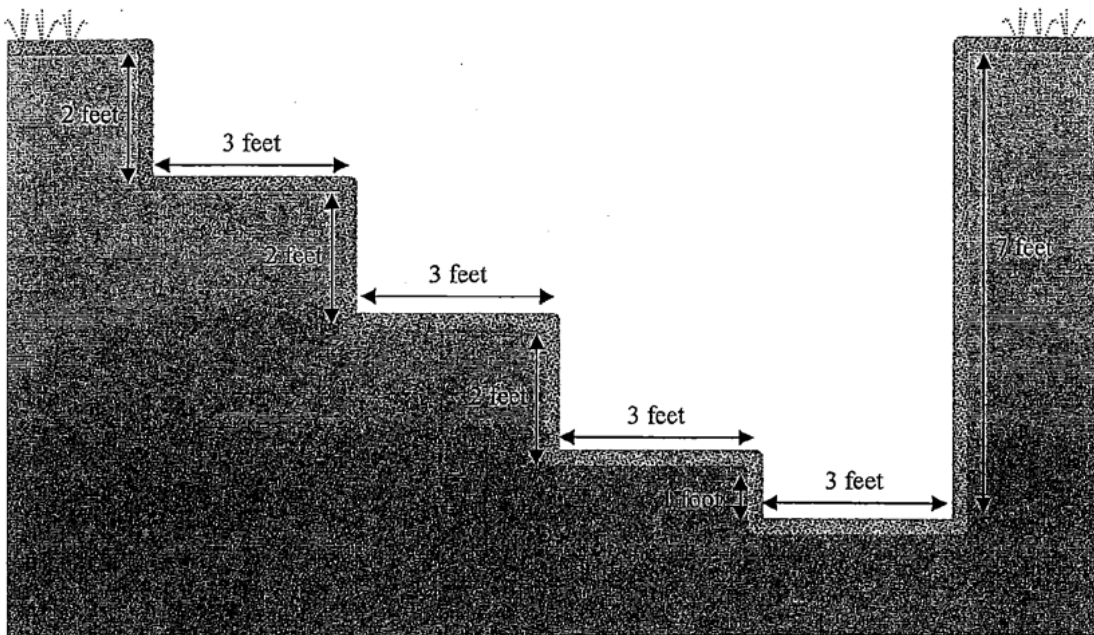


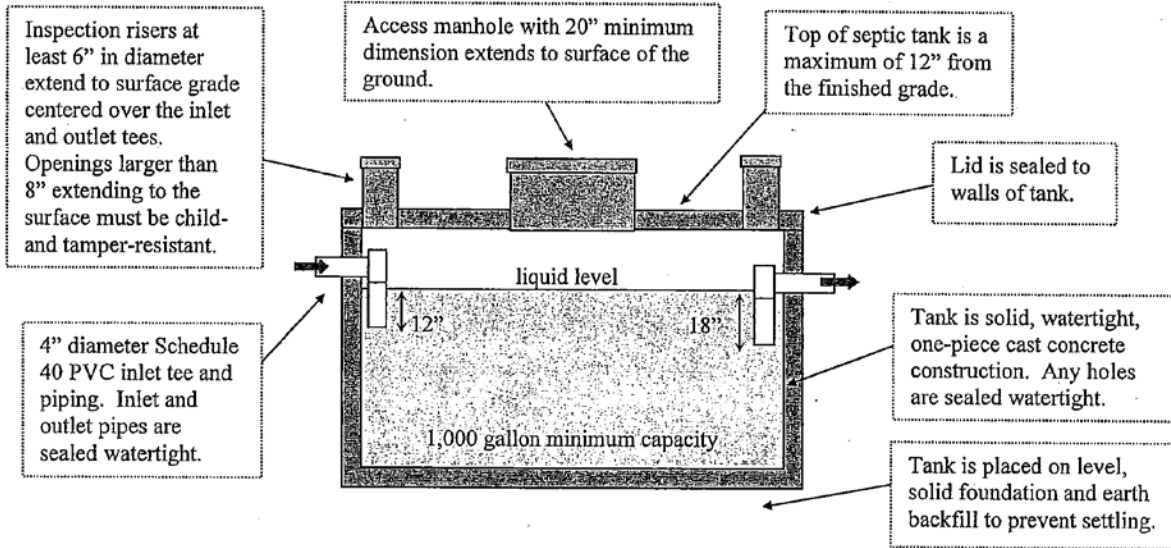
Figure B

Concrete Septic Tanks

See 2-6.6. Septic Tanks

(See also: 2-6.6.g. Special Considerations for Fiberglass, Fiberglass Reinforced Polyester, and Polyethylene Tanks)

Single-Compartment Concrete Septic Tank



Two-Compartment Concrete Septic Tank

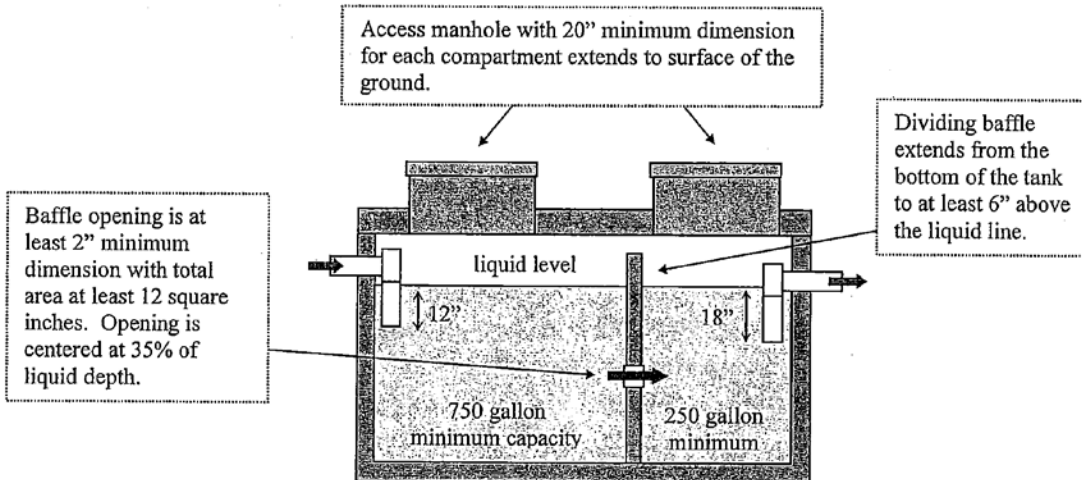
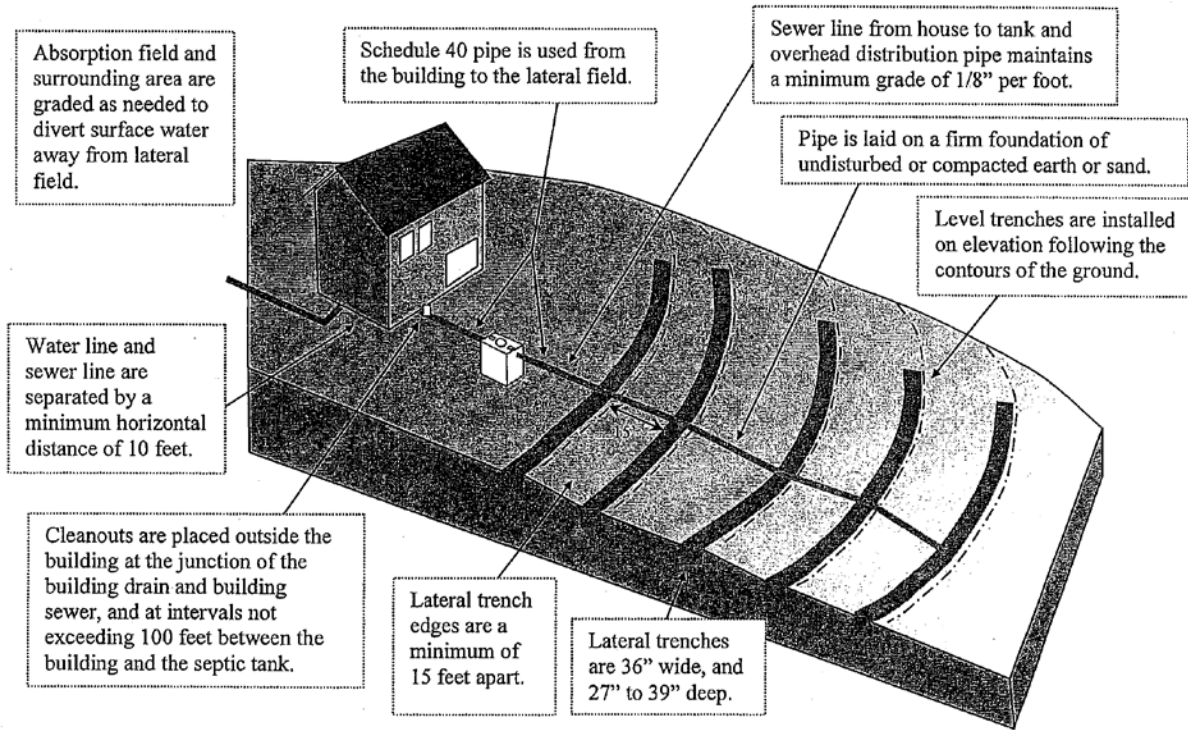


Figure C

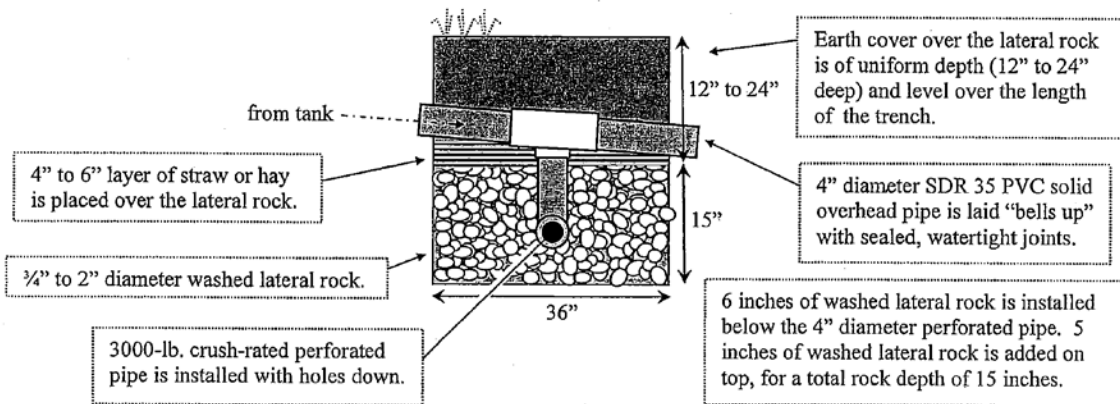
Septic Tank and Lateral Field

Conventional Sequential (Step-Down) Overhead System
for Sloping Terrain in Soils with Slow, Moderate, or Rapid Permeability

Field Layout



Cross Section of Lateral Trench Utilizing Lateral Rock and Pipe



CHAPTER 3 SINGLE-FAMILY WASTE STABILIZATION PONDS (LAGOONS)

SECTION 1 DEFINITIONS

In addition to the definitions provided in Chapter 1 of this code, the words, terms and phrases listed below, for purposes of this Chapter 3, are defined as follows:

- 3-1.1 Approval or Approved: accepted or acceptable by the Health Department in accordance with applicable specifications stated herein or with additional criteria accepted by the Department.
- 3-1.2 Floodplain: the 100-Year Floodplain.
- 3-1.3 Health Department: the Lawrence-Douglas County Health Department.
- 3-1.4 Lagoon or Sewage Lagoon: an artificial pond designed to exclude surface water and receive raw sewage through a submerged sewer for biological decomposition.
- 3-1.5 Public or Community Sewerage System: any sewage collection, treatment and disposal system, including sewers, treatment plants, pumping stations, force mains and all other elements owned, operated or managed by a public entity (including agents thereof) and serving more than one residential premises.

SECTION 2 AREA REQUIREMENTS

- 3-2.1 Residential Parcels, Tracts, or Lots. For the unincorporated areas of Douglas County, Kansas, an individual waste stabilization pond (lagoon) shall not be constructed upon any parcel, tract, or lot of less than ten (10) adjoining acres.

The exceptions to this requirement are when:

- a. A division of property, which is less than the above stated minimum, has occurred and has been filed with the Douglas County Register of Deeds prior to October 10, 1997; or
- b. A property is exempt under Section 21 - 4.07 of the Douglas County Zoning Regulations.

SECTION 3 USE OF SINGLE-FAMILY WASTE STABILIZATION PONDS (LAGOONS)

- 3-3.1 The use of an individual waste stabilization pond, usually referred to as a lagoon, will be considered only when located within slowly permeable soils of 0.2 inches per hour or less, as determined by the USDA Soil Survey of Douglas County.

SECTION 4 PERMIT REQUIRED

- 3-4.1 No person shall be issued a building permit without having first obtained from the Health Department a permit to construct a lagoon. A fee shall be charged by the Health Department for the permit.
- 3-4.2 No person shall construct, repair or alter a lagoon without obtaining a construction permit for such purpose from the Health Department. No permit for the construction, repair or alteration of a lagoon shall be issued until the Health Department has inspected and approved the site and the proposed location and design of the lagoon. The lagoon may be inspected by the Health Department at any stage of construction.
- 3-4.3 All applicants will be required to sign an application form to acknowledge the lagoon must be inspected and installed according to the approved plan.
- 3-4.4 No house or structure shall be occupied or used until a final inspection shows the lagoon has been approved by the Health Department.

SECTION 5 INSTALLER LICENSE REQUIRED

- 3-5.1 No person shall install, construct, repair, or alter a lagoon without having first obtained an annual Installer License from the Health Department. An annual fee shall be charged by the Health Department for the license.
- 3-5.2 An Installer License may be issued to a commercial contractor or homeowner. A homeowner shall install, repair, or alter lagoon located on his/her property only.
- 3-5.3 A licensed installer shall be on site at all times when the lagoon is being installed, constructed, repaired, or altered.
- 3-5.4 The licensed commercial contractor shall be responsible for informing the property owner regarding recommended maintenance of a lagoon that the contractor installs, constructs, repairs, or alters.

3-5.5 No person shall receive an Installer License from the Health Department without having first passed a written examination. A minimum of 70 percent of the answers on the written examination shall be answered correctly to receive the Installer's License.

3-5.6 Written examinations may be taken at any time during the calendar year. Any person wishing to take a written examination may do so by making an appointment with the Health Department. There will be a test fee for taking the examination.

SECTION 6 DATA REQUIREMENTS

3-6.1 The following shall be submitted to and accepted by the Health Department before issuance of a permit to construct a lagoon.

a. An application form including the following:

- 1) Name, address and phone number of applicant and owner.
- 2) Location of building site, including legal description with section, township and range.
- 3) Number of bedrooms, number of persons to live in the home and a list of all water-using appliances.

b. A drawing of the lot or site, showing:

- 1) Overall dimensions of the lot;
- 2) Location of buildings, driveways, public and private easements and geographical features near the proposed lagoon;
- 3) Location and type of water supply and location of water service lines;
 - 4) Layout of entire lagoon system; lagoon, diversion box, if used, and interconnecting lines;
 - 5) Proposed size and location of lagoon;
 - 6) Foundation, footing or any other non-sewage drain location;
 - 7) Arrow indicating North direction; and

c. Other supportive data or information required by the Health Department.

3-6.2 Field Data. Field data including the following:

- a. The permeability class of the soil layers at and below the proposed floor of the lagoon and the interior dikes of the lagoon.
- b. The depth to permanent or fluctuating water table.
- c. The depth to hardrock, bedrock or other impervious materials.
- d. The slope of the proposed lagoon area.
- e. The percentage by volume of coarse fragments greater than ten (10) inches in diameter.
- f. The percentage of soil surface covered by coarse fragments greater than ten (10) inches in diameter.
- g. The unified soil group at and below the bottom and sides of the lagoon based on the unified soil-engineering classification system.

Soil and groundwater test holes shall be made to a minimum depth of four (4) feet below the proposed floor of the lagoon. If test holes are left unattended, they shall be "benched" for safety reasons (see Figure A).

3-6.3 Percolation Tests. Percolation tests may be required by the Health Department.

- a. Preparation of Percolation Test Holes. Percolation test holes shall be dug or bored with vertical sides, shall be four (4) inches in width and shall extend to the proposed depth of the Single-family Waste Stabilization Pond. Sides and bottom of test holes shall be scratched with a pointed instrument to remove smeared soil surfaces and to provide a natural soil interface into which water may percolate. Loose material shall be removed and two (2) inches of fine gravel or coarse sand shall be added to the test hole. Test holes shall not be located in or near draws, banks, stump holes or any other location where percolation rates derived would not be representative of typical soil and terrain conditions. Six or more percolation tests shall be made in separate test holes spaced uniformly over the proposed Single-family Waste Stabilization Pond site.
- b. Saturation and Swelling of Soil. Percolation test holes shall be filled with water and shall be kept filled until the soil is saturated and clays have had an opportunity to swell. No tests shall be performed until the soil has been soaked at least four (4) hours. The Health Department may require that the test holes be soaked overnight.

- c. Percolation Rate Measurement. After soaking, water depths in the percolation test holes shall be adjusted until six (6) inches of water remains over the gravel. From a fixed reference point, established at or near ground surface, repeated measurements shall be made at equal time intervals of the distance in inches from the reference point to the water surface. Water shall be added to restore a six (6) inch depth if the water falls to less than two (2) inches above the gravel.

Measurements shall be continued until a constant percolation rate is evidenced (i.e. the water surface drops the same distance each time interval). The time in minutes required for the water column to drop one inch at this constant rate shall be recorded as the percolation rate. When percolation rates vary significantly within the proposed area, additional tests may be required and data on all tests performed must be submitted for review.

SECTION 7 EXISTING SINGLE-FAMILY WASTE STABILIZATION PONDS

- 3-7.1 Any lagoon lawfully installed prior to the effective date of these standards may remain in use if, and so long as, it continues to operate in accordance with the original design and location and does not present any hazard to the public health, safety or welfare. Any replacement, alteration, enlargement, repair, removal, conversion, improvement or demolition shall comply with the requirements of these standards or as amended.

SECTION 8 CONNECTION TO SEWER – SINGLE-FAMILY WASTE STABILIZATION PONDS

- 3-8.1 If a public or community sewage system becomes available to a premise served by a Single-family Waste Stabilization Pond, the owner, lessee or agent shall be required to connect the properties affected to the public or community sewage system within 90 days.
- 3-8.2 The waste stabilization pond shall be abandoned by dewatering and pushing in the dikes and returning the area to the contours it had before construction of the waste stabilization pond.
- 3-8.3 A public or community sewage system shall be considered available if it is within 200 feet of a building connected to the Single-family Waste Stabilization Pond.

SECTION 9 CONNECTION TO SINGLE-FAMILY WASTE STABILIZATION POND

- 3-9.1 All sinks, flush toilets, lavatories, garbage disposals, dishwashers, clothes washing machines, shower baths, bath-tubs, basins and similar plumbing fixtures or appliances shall be connected to the Single-family Waste Stabilization Pond.
- 3-9.2 If water from roof drains and/or foundation drains is discharged into the lagoon, then provision shall be made so that this water can be diverted from the pond when the lagoon is at capacity.

SECTION 10 SIZE OF SINGLE-FAMILY WASTE STABILIZATION PONDS

- 3-10.1 The following criteria shall be used to determine the size of the Single-family Waste Stabilization Pond:
- If the house has 3 bedrooms or less or if it will serve 5 persons or less, then the smaller lagoon shall be required. The smaller lagoon is illustrated in Figure B.
 - If the house has 4 or 5 bedrooms and will serve 6, 7 or 8 persons, then the larger lagoon shall be required. The larger lagoon is illustrated in Figure C.
 - If there is any question about size, then the larger lagoon, Figure C, shall be required. For instance, if the house has 3 bedrooms and is occupied by 6 persons, the larger size will be used.

SECTION 11 SINGLE-FAMILY WASTE STABILIZATION POND REQUIREMENTS

- 3-11.1 If percolation tests are required then the percolation rate shall be slower than or equal to 1-inch fall per hour in the area of the Single-family Waste Stabilization Pond.
- 3-11.2 If undisturbed soil forms the bottom of the lagoon, then the bottom of the lagoon shall not be closer than four (4) feet to bedrock.
- 3-11.3 When the pond excavation penetrates or terminates in either a rock strata or porous (sand or gravel) strata the excavation shall be extended a distance of one foot on both the bottom and side slopes. The areas of supplemental excavation shall be filled with a non-permeable earthen material to limit seepage from the pond to a maximum value of ¼ inch per day. This may be accomplished by using a clay soil which is free of rocks. If a clay soil is not available, the fill soil shall be mixed with bentonite clay at the manufacturer's recommended rate and then compacted.

3-11.4 The normal ground water elevation shall be at least ten (10) feet below ground surface and four (4) feet below the bottom of the lagoon.

SECTION 12 LOCATION REQUIREMENTS

3-12.1 Unless otherwise approved by the Health Department, the single-family waste stabilization pond shall be located as set forth in Table 1. No single-family waste stabilization pond shall be installed within:

- a. Twenty-five (25) feet of any private water line or water meter (p. 4, KDHE Bulletin 4-2, or as amended).
- b. Fifty (50) feet of any house or other building.
- c. Fifty (50) feet of any cistern, in-ground swimming pool, surface water course, creek bank, stream, river, pond, or lake (p. 4, KDHE Bulletin 4-2, or as amended).
- d. One hundred (100) feet of any property line, including right-of-way.
- e. One hundred (100) feet of any water well.

3-12.2 No single-family waste stabilization pond permitted after January 1, 2007, shall be installed within the floodplain nor where groundwater or adverse geological formations may result in the contamination of groundwater by sewage.

3-12.3 All distances shall be measured from inside top of the waste stabilization pond dike.

SECTION 13 MINIMUM DESIGN AND CONSTRUCTION

3-13.1 Sewage Conduits

- a. Size of sewage conduits – Sewage conduits connecting component parts of Single-family Waste Stabilization Pond systems shall be a minimum of four (4) inches in diameter.
- b. Materials – All pipe and fittings used in sewage conduits shall be constructed of PVC and meet nationally-recognized standards for their designated use—such as Standards published by the American Society for Testing and Materials or the National Sanitation Foundation and shall have been approved by the Health Department for use in on-site management systems. Sewage conduits under driveways or similar areas of load or impact shall be of material capable of withstanding maximum anticipated loads. All sewage pipe shall be marked to indicate it meets or exceeds a Schedule 40 or heavier “crush test” rating.
- c. Construction – Sewage conduits shall be installed with sealed, watertight, root-resistant joints and shall be laid on a firm foundation. This shall not be subject to settling, and shall be installed at a grade not less than one-eighth ($\frac{1}{8}$) inch per foot. All pipe from the structure to the Single-family Waste Stabilization Pond shall be laid “bells up” if bell and spigot pipe is used.
- d. Cleanouts – Cleanouts shall be placed at the junction of the building drain and building sewer at intervals not to exceed 100 feet in straight runs and as required by the Health Department.

A capped cleanout shall be placed near the junction of the sewer and the Single-family Waste Stabilization Pond at the nearest point where the flowline will be above the maximum pond water level. This cleanout shall be located so that water will not flow out of the pipe during the periods when the pond is full. This cleanout shall be accessible during the full pond stage.

3-13.2 Dike Requirements

- a. All dike slopes shall be 3½ feet horizontal to 1 foot vertical.
- b. The top of the dike shall be smoothed to a width of five feet to facilitate fencing.
- c. The dike shall be smooth with no clods, rocks, or ruts that will interfere with a mower.
- d. The top of the dike shall be below the point where sewage exits the house.
- e. Surface drainage shall not enter the pond. Surface drainage shall be diverted around the pond.

3-13.3 Watering Requirements

- a. The lagoon shall be prewatered to a depth of 2½ feet.
- b. Operating water depth shall be maintained between 1½ and 5 feet.
- c. Roof drains may be discharged to the sewer system provided there is a control arrangement which can divert this water from the sewer system during times of high water in the pond. Water shall be added as needed.

- d. The minimum dike freeboard shall be 2½ feet.
- e. If the pond appears that it will overflow then the Lawrence-Douglas County Health Department shall be contacted for emergency procedures.

3-13.4 Outflow Pipe

- a. The outflow pipe shall terminate about one foot from the center of the bottom of the pond. An extension shall be provided which will allow discharge of sewage at that point.

3-13.5 Fencing Requirements

- a. Fencing shall be installed to a minimum height of four feet.
- b. Corner posts shall be of substantial construction. Creosote, Osage orange or pipe corner posts are acceptable. They shall be cemented and provided with a “H” or “N” style brace at each corner.
- c. A four foot high hung gate with a lock shall be provided. The gate width shall be no less than four feet.
- d. The fencing shall be installed no closer than four feet from the top inside edge of the dike.
- e. Chain link fence or fencing with openings no greater than 4” x 4” is acceptable. In areas where livestock will have access to the fence, the fence posts shall be tall enough to install two strands of barbed wire or a single strand of electric fencing at the top of the fencepost.
- f. Fence posts shall be no further than twelve (12) feet apart. Fencing is illustrated in Figures D-E-F-G at the end of the document.
- g. No other fencing can be installed unless specific written approval is granted by the Health Department.
- h. All fencing requirements shall be completed and approved by the Health Department prior to occupancy of the residence.

3-13.6 Seeding and Sterilization

- a. The pond bottom and interior dikes up to two (2) feet elevation shall be treated with a herbicide at the manufacturer’s recommended sterilization rate. Care shall be taken not to apply herbicide above the two (2) feet elevation level where grass will be seeded.
- b. All dike area not sterilized shall be seeded with a densely growing, short-rooted grass, such as Blue, Fescue, Brome or Bermuda.

SECTION 14 OPERATION AND MAINTENANCE DIRECTIONS

3-14.1 The dikes shall have a good stand of groundcover established and maintained on it. This grass must be a short-rooted perennial such as Blue, Fescue, Brome or Bermuda. Once this vegetation is established it shall be regularly maintained. Trees and tall weeds shall not be allowed to develop in the dike area. Vegetation shall not be allowed to grow higher than six (6) inches.

3-14.2 Water vegetation shall be controlled at first appearance. All trees and weeds, such as cattails and duckweed, shall be removed as soon as the first ones develop in the water. Trees and weeds shall be removed from the water so that they do not contribute to the organic loading of the pond.

3-14.3 The water depth shall be maintained between 1½ and 5 feet.

3-14.4 Any damage to the dikes shall be repaired by reshaping the area to the original plan and then establishing a good stand of groundcover on the worked areas. Surface water shall be diverted around the pond so it will not contribute to the hydraulic loading of the pond or create an erosion problem.

3-14.5 The waste stabilization pond, fence, gate and pipe, shall be maintained in the condition called for in the original plans and specifications.

3-14.6 Animal and waterfowl shall not be confined within the pond fence.

Figure A
“Benched” Test Hole

See 3-5.2. Field Data Requirements

10-Foot Deep Test Hole for Lagoon

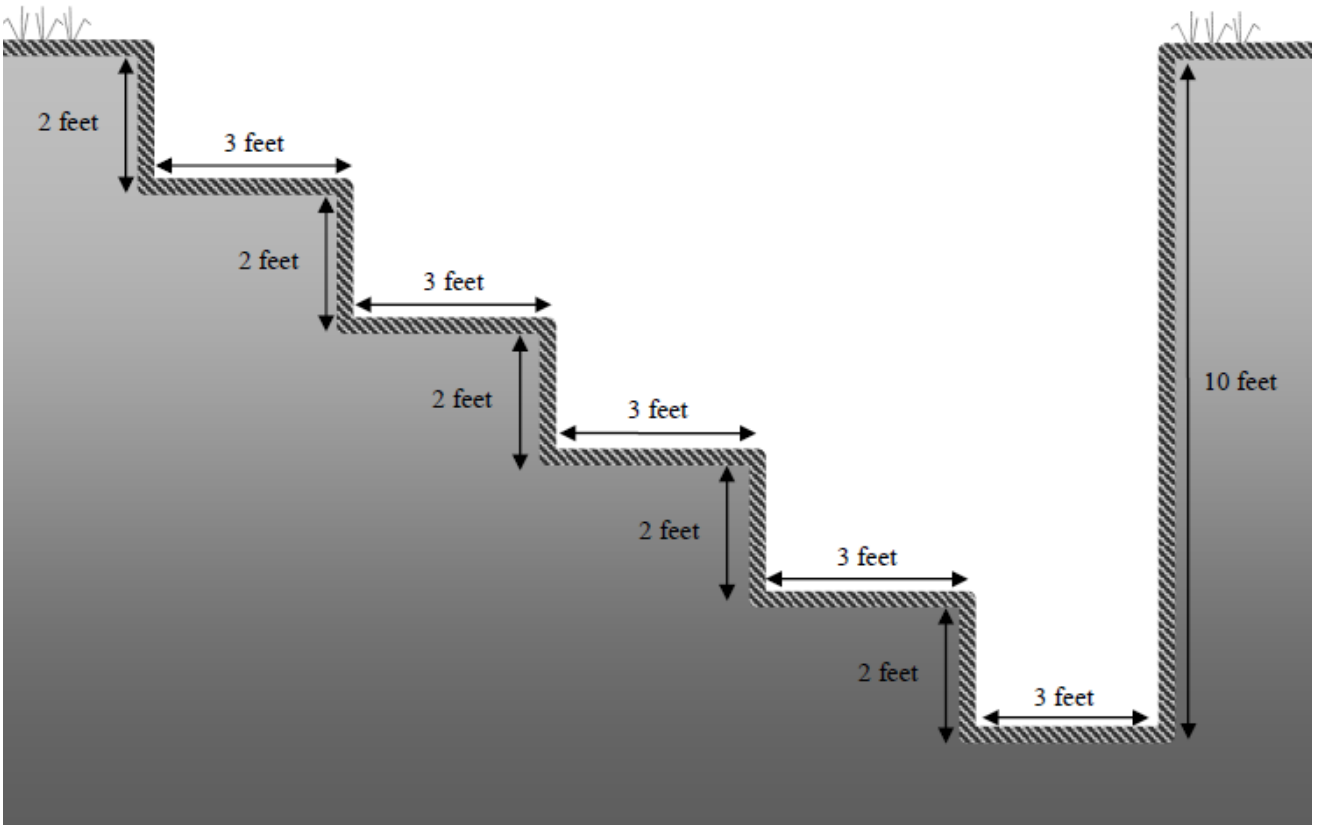


Figure B
The Smaller Single-Family Waste Stabilization Pond

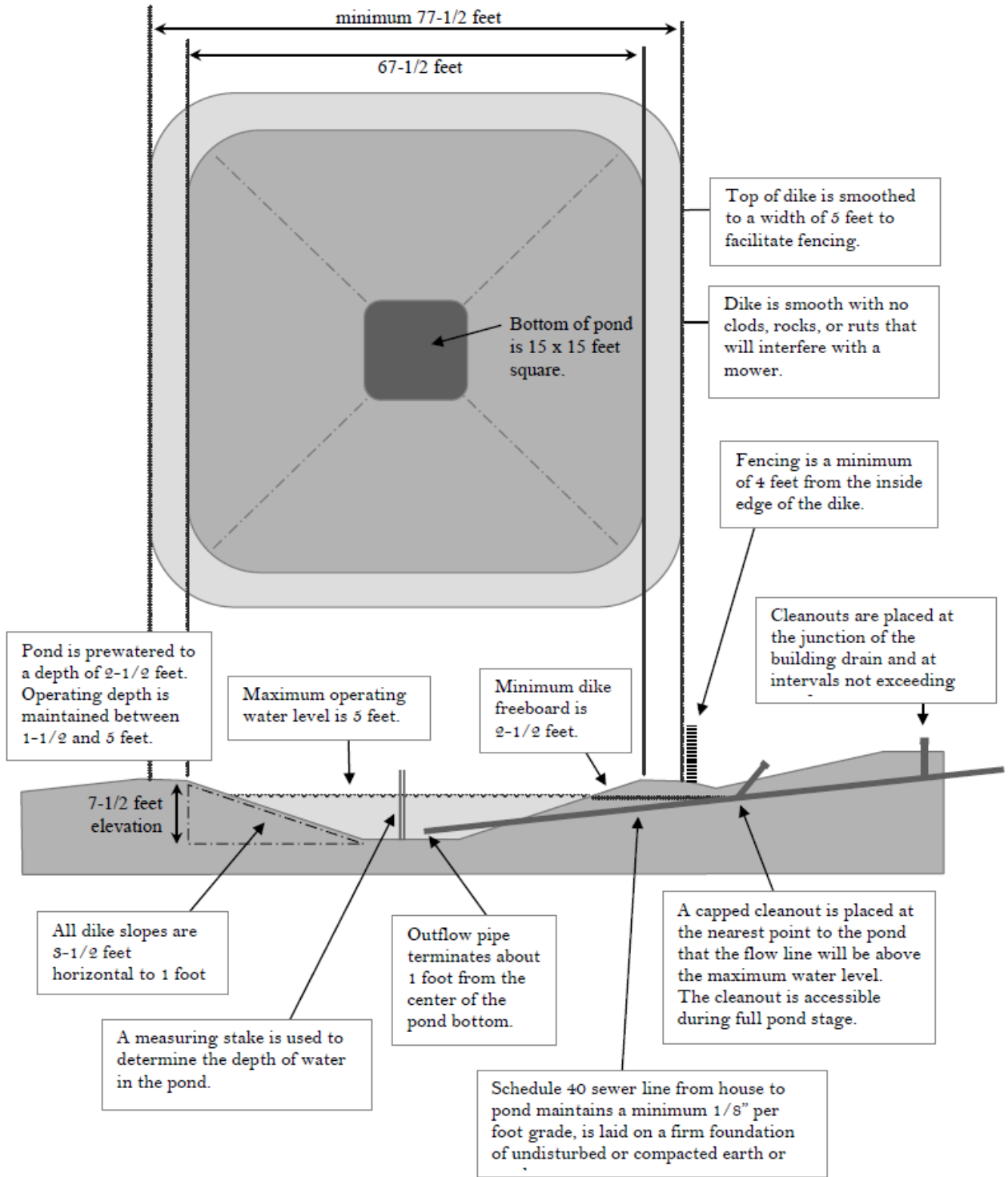


Figure C
The Larger Single-Family Waste Stabilization Pond

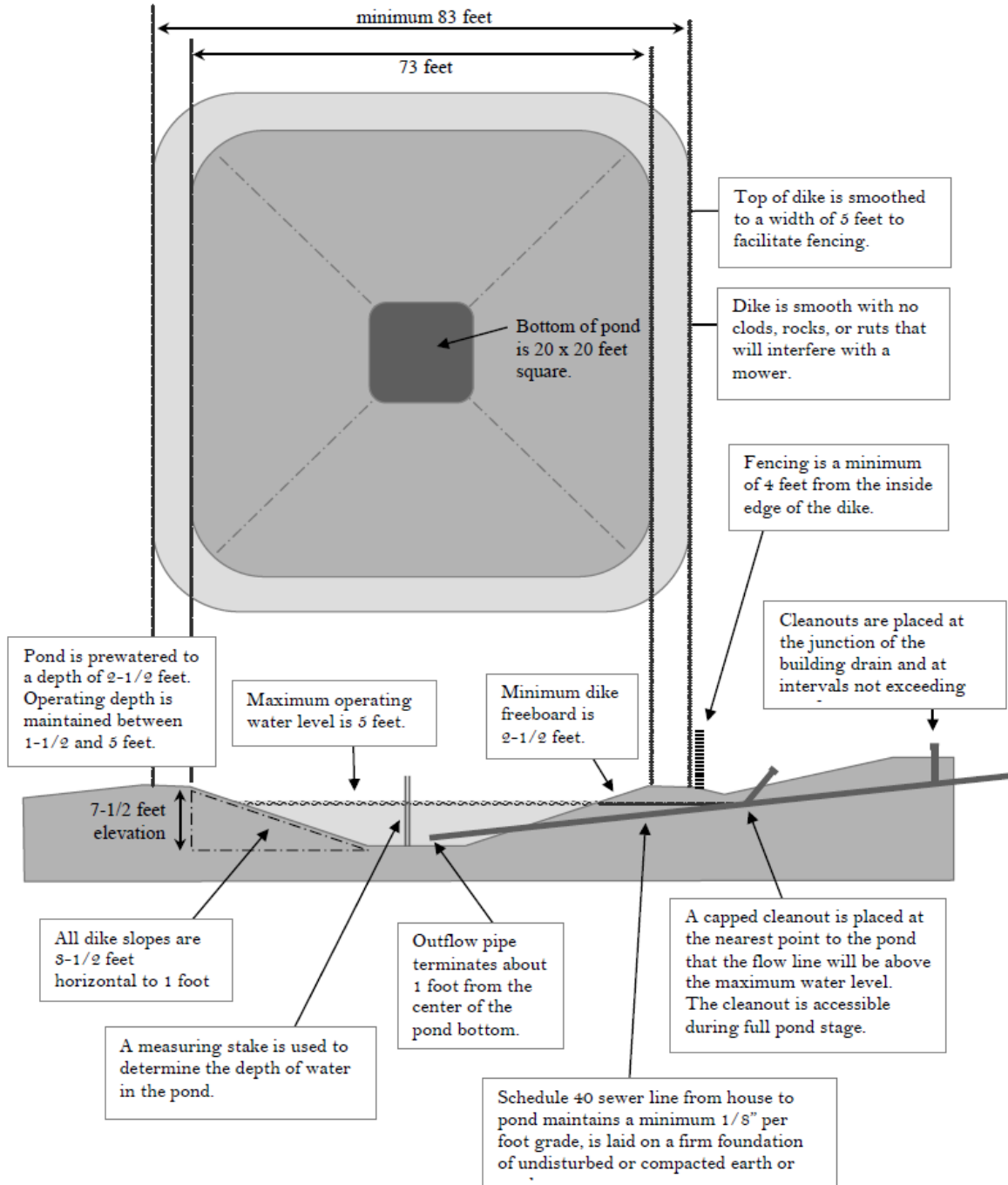
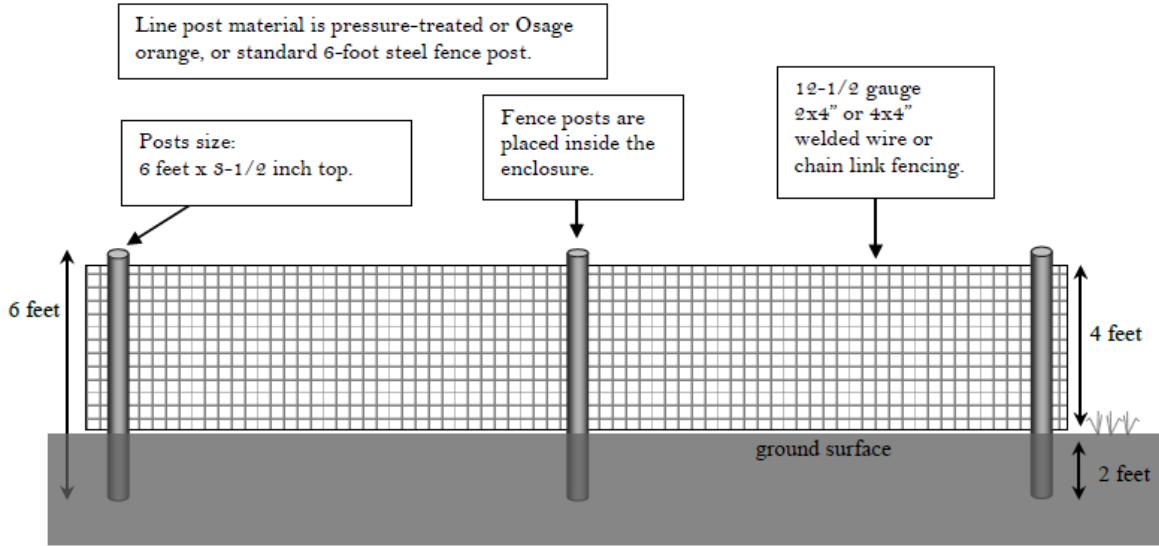
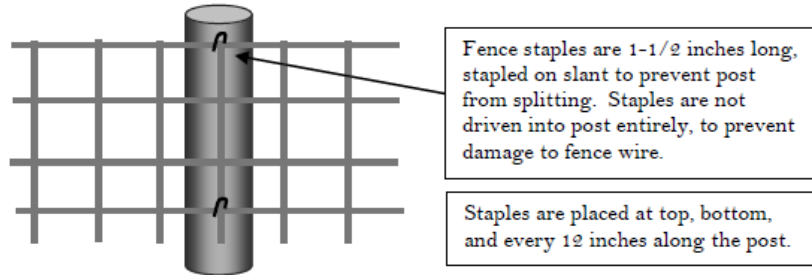


Figure D
Fencing: The Standard Fence
Installation of Line Posts and Fencing



Attaching Fencing to Wooden Fence Post



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Figure E

Fencing: Standard Bracing for "N" Style Corners

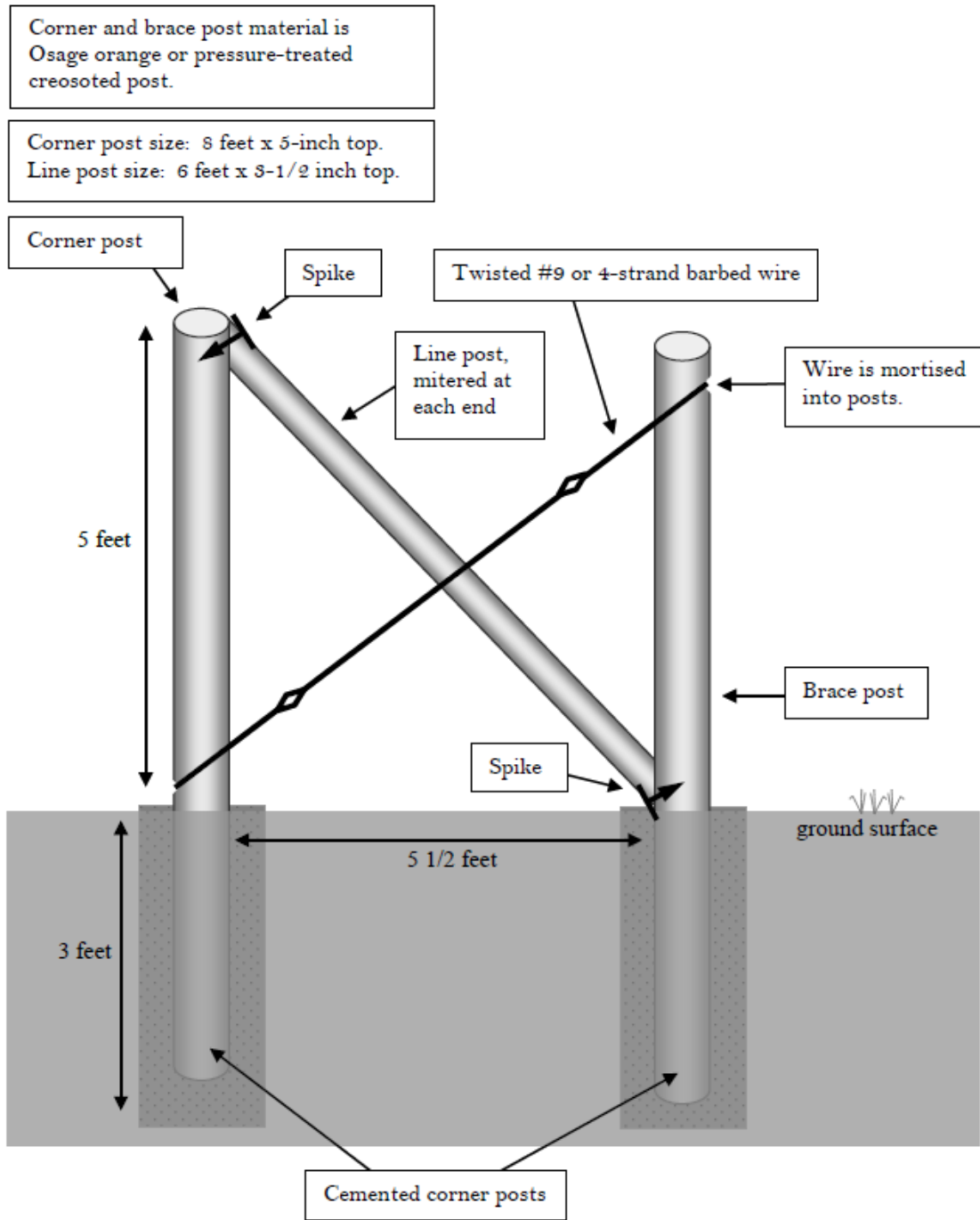


Figure F
Fencing: Standard Bracing for “H” Style Corners

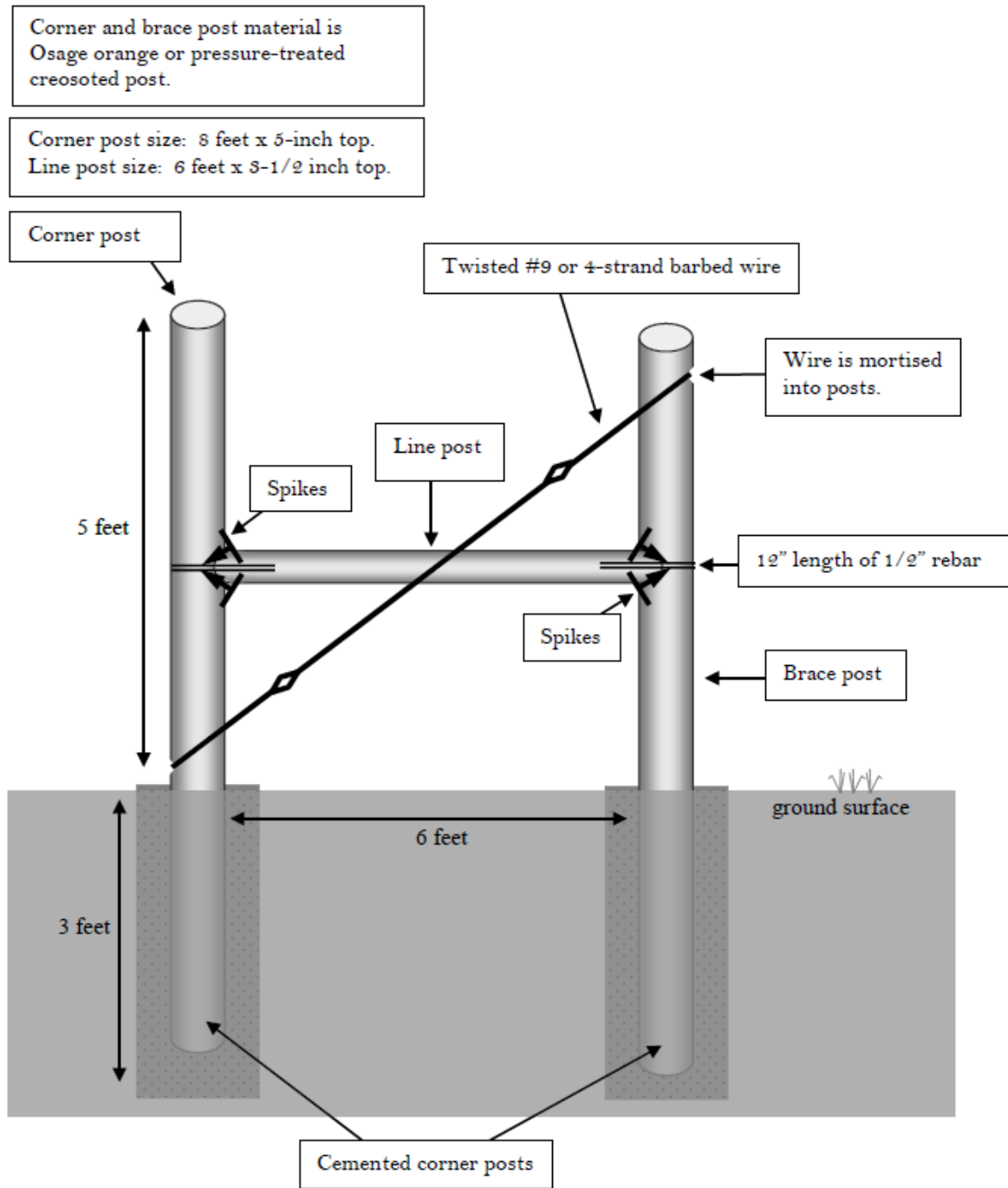
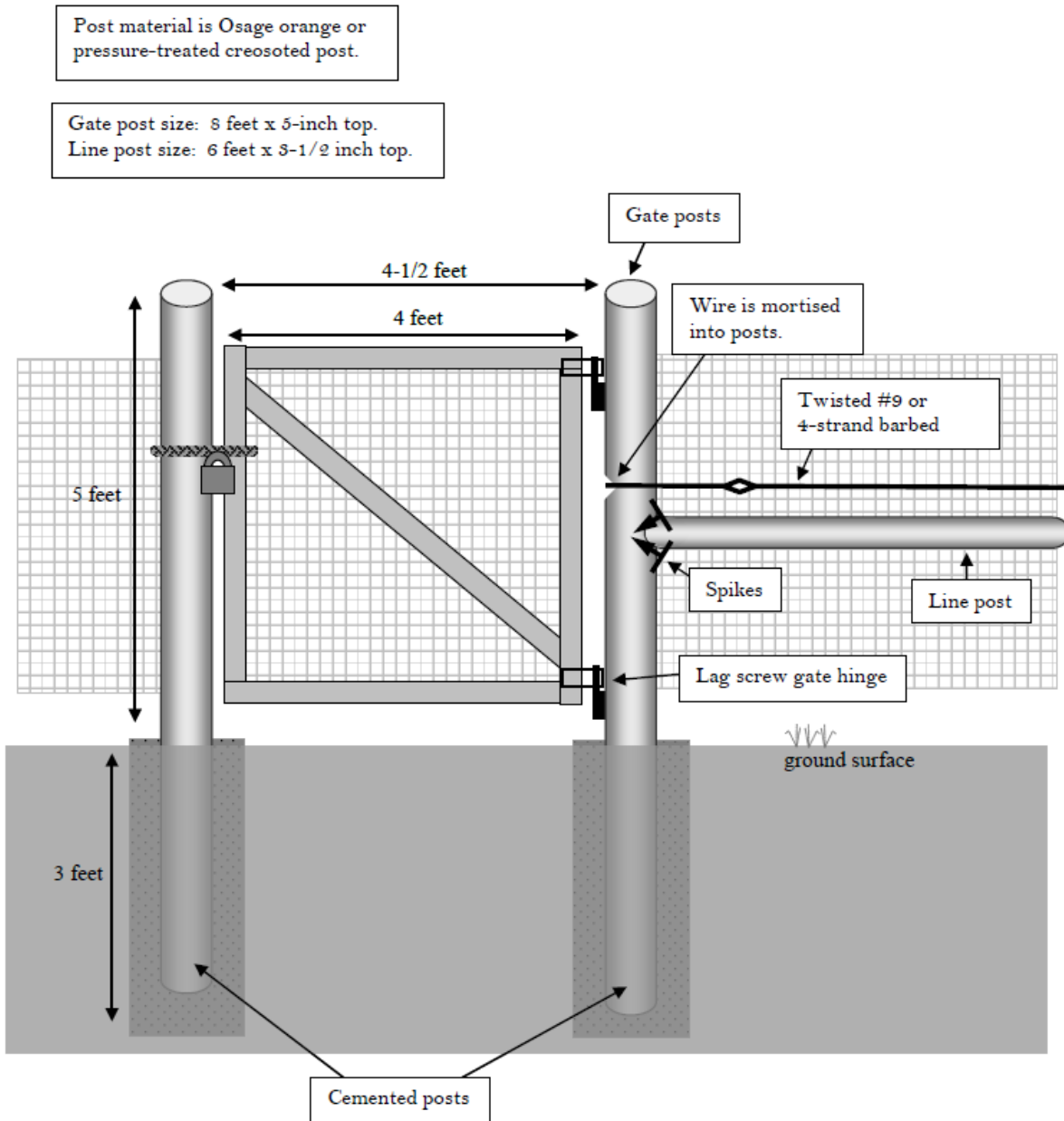


Figure G
Fencing: Standard Hung Gate with "H" Style Bracing



**SANITARY CODE
DOUGLAS COUNTY, KANSAS**

**CHAPTER 4 WATER SUPPLIES
SECTION 1 DEFINITIONS**

In addition to the definitions provided in Chapter 1 of this code, the words, terms and phrases listed below, for purposes of this Chapter 4, are as follows:

4-1.1 Abandoned Water Well: a water well determined by the Kansas Department of Health and Environment to be a well which meets any of the following criteria:

- a. Use has been permanently discontinued.
- b. Pumping equipment has been permanently removed.
- c. The well is in such a state of disrepair that it cannot be used to supply water, or has the potential for transmitting surface contaminants into the aquifer, or both.

- d. The well poses a potential health or safety hazard.
 - e. The well is in such condition that it cannot be placed in active or inactive status.
- 4-1.2 Active Well: a water well which is an operating well used to withdraw water, monitor or observe groundwater conditions.
- 4-1.3 Annular Space: the space between the well casing and the well bore or the space between two or more strings of well casing.
- 4-1.4 Aquifer: an underground formation that contains and is capable of transmitting groundwater.
- 4-1.5 Backflow: the undesirable reversal of flow of water or mixtures of water and other liquids, gases or other substances into the distribution pipes of the potable supply of water from any source or sources.
- 4-1.6 Cistern: a container or receptacle utilized to contain potable water delivered from a public water supply for household domestic uses. The cistern shall be a minimum capacity of 1,000 gallons and the construction material of the cistern shall be approved by the Health Department.
- 4-1.7 Confined Aquifer: an aquifer overlain and underlain by impermeable layers. Groundwater in a confined aquifer is under pressure greater than atmospheric pressure and will rise in a well above the point at which it is first encountered.
- 4-1.8 Construction of Water Wells: all acts necessary to obtain groundwater by any method for any use including, without limitation, the location of and excavation for the well.
- 4-1.9 Cross-Connection: any unprotected actual or potential connection or structural arrangement between a public or a consumer's potable water system and any other source or system through which it is possible to introduce into any part of the potable system any used water, industrial fluid, gas, or substance other than the intended potable water with which the system is supplied. By-pass arrangements, jumper connections, removable sections, swivel or change-over devices and other temporary or permanent devices through which or because of which temporary or permanent devices through which or because of which "backflow" can or may occur are considered to be cross-connections.
- 4-1.10 Domestic Uses: the use of water by any person or family unit or household for household purposes, or for the watering of poultry, farm and domestic animals used in operating a farm, or for the watering of less than one thousand (1,000) head of livestock, or for the irrigating of lands not exceeding a total of two acres in area for the growing of gardens, orchards and lawns.
- 4-1.11 Floodplain: the 100-year floodplain.
- 4-1.12 Groundwater: the part of the subsurface water which is in the zone of saturation.
- 4-1.13 Grout: cement grout, neat cement grout, bentonite clay grout or other material approved by the department used to create a permanent impervious watertight bond between the casing and the undisturbed formation surrounding the casing or between two or more strings of casing.
- a. Neat cement grout is a mixture consisting of one ninety-four (94) pound bag of portland cement to five to six gallons of clean water.
 - b. Cement grout is a mixture consisting of one ninety-four (94) pound bag of portland cement to an equal volume of sand having a diameter no larger than 0.080 inches (2 millimeters) to five to six gallons of clean water.
 - c. Bentonite clay grout is a mixture consisting of water and commercial grouting or plugging sodium bentonite clay containing high solids such as that manufactured under the trade name of "volclay grout", or an equivalent as approved by the Kansas Department of Health and Environment.
 - 1) The mixture shall be per the manufacturer's recommendations to achieve a weight of not less than 9.4 pounds per gallon of mix. Weighting agents may be added as per the manufacturer's recommendations.
 - 2) Sodium bentonite pellets, tablets or granular sodium bentonite may also be used provided they meet the specifications listed in 4-1.13.c. above.
 - 3) Sodium bentonite products that contain low solids, are designed for drilling purposes or that contain organic polymers shall not be used.
- 4-1.14 Grout Tremie Pipe or Grout Pipe: a steel or galvanized steel pipe or similar pipe having equivalent structural soundness that is used to conduct pumped grout to a point of selected

emplacement during the grouting of a well casing or plugging of an abandoned well or test hole.

- 4-1.15 Health Department: the Lawrence-Douglas County Health Department.
- 4-1.16 Heat Pump Hole: a hole drilled to install piping for an earth coupled water source heat pump system, also known as a vertical closed loop system.
- 4-1.17 Inactive Status: a water well which is not presently operating but is maintained in such a way it can be put back in operation with a minimum of effort.
- 4-1.18 KDHE: the Kansas Department of Health and Environment.
- 4-1.19 License: a document issued by the Kansas Department of Health and Environment to qualified persons making application therefore, authorizing such persons to engage in the business of water well contracting.
- 4-1.20 Non-Public Water Supply: all water supplies for domestic uses which do not meet the definition of public water supply.
- 4-1.21 Pitless Well Adapter or Unit: an assembly of parts installed below frost line which will permit pumped groundwater to pass through the wall of the casing or extension thereof and prevent entrance of contaminants.
- 4-1.22 Public Water Supply System: a system for delivery to the public of piped water for human consumption that has at least ten (10) service connections or regularly serves at least twenty-five (25) individuals daily at least sixty (60) days out of the year. This term includes any source, treatment, storage or distribution facilities used in connection with the system.
- 4-1.23 Pump Pit: a watertight structure constructed at least two feet away from the water well and below ground level to prevent freezing of pumped groundwater and which houses the pump or pressure tank, distribution lines, electrical controls, or other appurtenances.
- 4-1.24 Reconstructed Water Well: an existing well that has been deepened or has had the casing replaced, repaired, added to or modified in any way for the purpose of obtaining groundwater.
- 4-1.25 Sanitary Well Seal: a manufactured seal, approved by the Kansas Department of Health and Environment and Lawrence-Douglas County Health Department, installed at the top of the well casing which, when installed, creates an air and watertight seal to prevent contaminated or polluted water from gaining access to the groundwater supply.
- 4-1.26 Static Water Level: the highest point below or above ground level which the groundwater in the well reaches naturally.
- 4-1.27 Test Hole or Hole: any excavation constructed for the purpose of determining the geologic, hydrologic and water quality characteristics of underground formations.
- 4-1.28 Treatment: the stimulation of production of groundwater from a water well, through the use of hydrochloric acid, muriatic acid, sulfuric acid, calcium, or sodium hypochlorite, polyphosphates or other chemicals and mechanical means, for the purpose of reducing or removing iron and manganese hydroxide and oxide deposits, calcium and magnesium carbonate deposits and slime deposits associated with iron or manganese bacterial growths which inhibit the movement of groundwater into the well.
- 4-1.29 Uncased Test Hole: any test hole in which casing has been removed or in which casing has not been installed.
- 4-1.30 Unconfined Aquifer: an aquifer containing groundwater at atmospheric pressure. The upper surface of the groundwater in an unconfined aquifer is the water table.
- 4-1.31 WWC-5 Form: a water well drilling report completed by a well driller licensed by the Kansas Department of Health and Environment (KDHE).
- 4-1.32 Water Well: any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed when the intended use of such excavation is for the location, diversion, artificial recharge or acquisition of groundwater.
- 4-1.33 Water Well Contractor: any individual, firm, partnership, association or corporation who shall construct, reconstruct or treat a water well. The term shall not include:
- a. An individual constructing, reconstructing or treating a water well located on land owned by the individual, when the well is used by the individual for farming, ranching, or agricultural purposes or for domestic purposes at the individual's place of abode.

- b. An individual who performs labor or services for a licensed water well contractor at the contractor's direction and under the contractor's supervision.

SECTION 2 WATER SUPPLY REQUIRED

4-2.1 Owners of private homes that are used as a principle residence and all rented or leased homes shall furnish at least one convenient outlet supplying an adequate quantity of potable water. Owners of permanent establishments shall furnish an adequate supply of safe water for the clientele.

4-2.2 For individual lots, tracts, or parcels which contain a minimum lot area of three (3) adjoining acres but less than five (5) adjoining acres, no permit for the construction of a new on-site sewage management system will be issued after the effective date of this Sanitary Code before approval of the water supply by the Health Department. Approval of the water supply shall include one of the following requirements:

- a. A letter of approval has been issued by the appropriate public water supply that a water meter has been purchased for the property [Subdivision Regulation 20-811 (e) (1), p. 58, or as amended].
- b. A permit has been issued by the Health Department for a private cistern to be constructed. Cisterns shall not be installed on lots, tracts, or parcels divided after January 1, 2007, within the City of Lawrence Urban Growth Area (a public water supply is required for such lots) [Subdivision Regulation 20-811 (e) (1), p. 58, or as amended].

4-2.3 For individual lots, tracts, or parcels which contain a minimum lot area of five (5) adjoining acres, no permit for the construction of a new on-site sewage management system shall be issued after the effective date of this Sanitary Code before approval of the water supply by the Health Department. Approval of the water supply shall include one of the following requirements:

- a. A letter of approval has been issued by the appropriate public water supply that a water meter has been purchased for the property [Subdivision Regulation 20-811 (e) (1), p. 58, or as amended].
- b. A permit has been issued by the Health Department for a private well to be constructed. Lots, tracts, or parcels divided after January 1, 2007, which are located within the Urban Growth Area shall not use private water wells as the primary potable water source (a public water supply is required for such lots) [Subdivision Regulation 20-811 (e) (1), p.58, or as amended].
- c. A permit has been issued by the Health Department for a private cistern to be constructed. Cisterns shall not be installed on lots, tracts, or parcels divided after January 1, 2007, within the City of Lawrence Urban Growth Area (a public water supply is required for such lots) [Subdivision Regulation 20-811 (e) (1), p. 58, or as amended].

SECTION 3 PUBLIC WATER SUPPLIES

4-3.1 State Permit. No person shall operate a public water supply without obtaining a permit from the Kansas Department of Health and Environment.

4-3.2 State Approved Plans. No person shall construct any public water supply on any property subject to the provisions of this code until the plans and specifications have been submitted and approved by the Kansas Department of Health and Environment. A copy of the plans and specifications shall be made available to the Lawrence-Douglas County Health Department if requested by the Lawrence-Douglas County Health Department.

SECTION 4 NON-PUBLIC WATER SUPPLIES

4-4.1 No person shall construct a non-public water supply without approval from the Health Department.

4-4.2 Use of surface water (lakes, ponds, or streams) as a source of water for a non-public water supply shall not be permitted.

SECTION 5 NON-PUBLIC WATER SUPPLIES WITH TWO (2) OR MORE SERVICE CONNECTIONS 4-5.1 Permit Required

- a. No permit for constructing a non-public water supply with two (2) or more service connections shall be issued to any person when in the discretion of the Lawrence-Douglas County Health Department the property can be served by a public water supply.
- b. No person shall construct, repair or alter a non-public water supply with two (2) or more service connections without obtaining a construction permit for such purpose

from the Lawrence-Douglas County Health Department. No permit for the construction, repair or alternation of the water supply shall be issued until the Lawrence-Douglas County Health Department has inspected and approved the site and the proposed location and design of the water supply. A fee shall be charged by the Lawrence-Douglas County Health Department for the service. The water supply may be inspected by the Lawrence-Douglas County Health Department at any stage of construction.

- c. The Lawrence-Douglas County Health Department may require the water supply to be designed by a professional engineer and may ask for review of the proposal by the Kansas Department of Health and Environment.

4-5.2 Operation and Maintenance Requirements

- a. The owner of the water supply or his/her representative shall immediately notify the Lawrence-Douglas County Health Department of a situation with the water system including a breakdown or loss of water service which presents or may present an imminent and substantial endangerment to health.
- b. Newly constructed or repaired water distribution mains and finished water storage facilities shall be flushed and disinfected before use in accordance with methods acceptable to the Lawrence-Douglas County Health Department.
- c. The water supply shall be operated and maintained to provide a minimum positive pressure of twenty (20) psi (140kN/m²) throughout the distribution system except under extraordinary conditions such as unusual peak fire flow demand or major distribution system breaks.
- d. No person shall operate or maintain a non-public water supply system with two (2) or more service connections that has been:
 - 1) Constructed or reconstructed after October 10, 1997, until it has been inspected and a permit issued by the Lawrence-Douglas County Health Department.
 - 2) Temporarily or permanently enjoined as a public health nuisance by a court of competent jurisdiction.
 - 3) Found by the Lawrence-Douglas County Health Department not to comply with the provisions of these standards and a written notice thereof has been given to the owner or his/her agent.

4-5.3 Water Samples and Use of a Non-Public Water Supply with Two (2) or More Service Connections

In addition to the requirements which pertain to non-public water wells, the following shall be done and reviewed by the Lawrence-Douglas County Health Department prior to the issuance of a permit, to assure water quality for the public:

- a. A bacterial analysis is to be done initially and at least annually thereafter.
- b. A partial chemical analysis is to be done initially and every three (3) years thereafter.
- c. Other tests such as a screen for pesticides, volatile organic chemicals and heavy metals may be required, at the direction of the Lawrence-Douglas County Health Department to protect the public's health.
- d. The water samples shall be collected by the Lawrence-Douglas County Health Department and sent to Kansas Department of Health and Environment lab or other state certified labs for analysis. The fee for the analysis is the responsibility of the owner of the water supply or his/her representative.

SECTION 6 CISTERNS

4-6.1 New cisterns shall not be installed on lots, tracts, or parcels divided after January 1, 2007, within the City of Lawrence Urban Growth Area (a public water supply is required for such lots) [Subdivision Regulation 20-811 (e) (1), p. 58, or as amended].

4-6.2 Permit Required. No permit for the construction of a cistern shall be issued until the Health Department has inspected and approved the site and the proposed location and design of the cistern. A fee shall be charged by the Health Department for the construction permit. The cistern and water system may be inspected by the Health Department at any stage of construction.

4-6.3 Minimum Standards. Cisterns constructed after the effective date of this Sanitary Code shall meet the following requirements:

- a. Cisterns shall be constructed of monolithic concrete or "food grade" plastic.
- b. Cisterns shall have a minimum capacity of one thousand (1,000) gallons.

c. Cisterns shall be filled with potable water delivered from a public water supply.

4-6.4 Location Requirements. No cistern shall be installed after the effective date of this Sanitary Code within:

- a. Fifty (50) feet of any septic tank.
- b. Fifty (50) feet of any septic absorption field.
- c. Any areas where rainwater is likely to enter the cistern.

SECTION 7 NON-PUBLIC WATER WELLS

4-7.1 Permit Required. No person shall construct a non-public water well for domestic uses without obtaining a construction permit for such purpose from the Lawrence-Douglas County Health Department. No permit for the construction shall be issued until the Lawrence-Douglas County Health Department has inspected and approved the site and the proposed location and design of the non-public water well. A fee shall be charged by the Lawrence-Douglas County Health Department. The system and well may be inspected by the Lawrence-Douglas County Health Department at any stage of construction.

SECTION 8 MINIMUM STANDARDS FOR NON-PUBLIC WATER WELLS

Construction regulations for all wells other than public water supply:

4-8.1 Area Requirements

- a. No well shall be located upon any parcel, tract, or lot of less than five (5) adjoining acres whereon an on-site sewage management system is utilized.
- b. Any land divided after January 1, 2007, which is located within the floodplain shall not be counted in calculating lot area for the purpose of meeting minimum lot area requirements for on-site sewage management systems [Subdivision Regulation 20-811 (d) (2) (i), p.57, or as amended]. Lots, tracts, or parcels divided after January 1, 2007, which are located within the Urban Growth Area shall not use private water wells as the primary potable water source (a public water supply is required for such lots) [Subdivision Regulation 20-811 (e) (1), p. 58, or as amended].

The exemptions to this requirement are when:

- 1). A division of property, which is less than the above stated minimum, has occurred and has been filed with the Douglas County Register of Deeds prior to October 10, 1997; or
- 2) A property is exempt under Section 21-4.07 of the Douglas County Zoning Regulations.
- 3) Any lands divided prior to January 1, 2007, shall not be required to meet the floodplain requirements [Subdivision Regulation 20-801 (d), p. 7, or as amended].

4-8.2 Location Requirements

- a. Unless otherwise approved by the Health Department, the well shall be located as set forth in Table 3. After the effective date of this Sanitary Code, no new well shall be installed within:
 - 1) Fifteen (15) feet of any utility line.
 - 2) Twenty-five (25) feet of any property line, allowing public right-of-ways to be counted.
 - 3) Fifty (50) feet of any residential building or any other building which has the potential to be treated for termites.
 - 4) Fifty (50) feet of any septic tank, surface water course, creek bank, stream, pond, river, or lake (p. 4, KDHE Bulletin 4-2, or as amended).
 - 5) Fifty (50) feet of any sewer line or pressure sewer line.
 - 6) One hundred (100) feet of any abandoned cesspool, inactive well, barnyard, feedlot, waste stabilization pond (lagoon), manure storage, pit privy, or septic system absorption field.
 - 7) One hundred fifty (150) feet of any chemical storage, fertilizer storage, fuel storage, pesticide storage or landfill.
 - 8) Any floodplain.
- b. Proper drainage in the vicinity of the well shall be provided so as to prevent the accumulation and ponding of surface water within fifty (50) feet of the well. The well shall not be located in a ravine or any other drainage area where surface water may flow into the well.

- c. The water well shall be so located as to minimize the potential for contamination of the delivered or obtained groundwater and to protect groundwater aquifers from pollution and contamination.
- d. After the effective date of this Sanitary Code, any newly constructed well shall be located within the boundaries of the same legally described lot, tract, or parcel as the building(s) for which the well supplies water.

4-8.3 Grouting For Constructed or Reconstructed Wells

- a. Constructed or reconstructed wells shall be sealed by grouting the annular space between the casing and the well bore from ground level to a minimum of twenty (20) feet or to a minimum of five feet into the first clay or shale layer, if present, whichever is greater. If a pitless well adapter or unit is being installed, the grouting shall start below the junction of the pitless well adapter or unit where it attaches to the well casing and shall continue a minimum of twenty (20) feet below this junction or to a minimum of five feet into the first clay or shale layer whichever is greater.
- b. To facilitate grouting, the grouted interval of the well bore shall be drilled to a minimum diameter at least three inches greater than the maximum outside diameter of the well casing. If a pitless well adapter or unit is being installed on the well's casing, the well bore shall be a minimum diameter of at least three inches greater than the outside maximum diameter of the well casing through the grouted interval below the junction of the pitless well adapter or unit where it attaches to the well casing.
- c. If groundwater is encountered at a depth less than the minimum grouting requirement, the grouting requirement may be modified to meet local conditions if approved by the Kansas Department of Health and Environment.
- d. Waters from two or more separate aquifers shall be separated from each other in the bore hole by sealing the bore hole between the aquifers with grout.

4-8.4 Well Casing

- a. Asbestos-cement well casing (transite) shall not be used in water wells that produce water for human consumption or food processing.
- b. All wells shall have durable watertight casing from at least one foot above finished ground surface to the top of the producing zone of the aquifer. In no event shall the watertight casing extend less than twenty (20) feet below the ground level. Exceptions to either of the above may be granted by the Kansas Department of Health and Environment if warranted by local conditions. The casing shall be clean and serviceable and of a type to guarantee reasonable life so as to insure adequate protection to the aquifer or aquifers supplying the groundwaters. Used, reclaimed, rejected, or contaminated pipe shall not be used for casing any well. All water well casing shall be approved by the Kansas Department of Health and Environment.
- c. All groundwater producing zones that are known or suspected to contain natural or man-made pollutants shall be adequately cased and grouted off during construction of the well to prevent the movement of the polluted groundwater to either overlying or underlying fresh groundwater zones.
- d. The well casing shall terminate not less than one (1) foot above the finished ground surface. No opening shall be made through the well casing except for installation of a pitless well adapter so designed and fabricated to prevent soil, subsurface and surface water from entering the well.

4-8.5 Well Vents

Well vents shall be used and shall terminate not less than one foot above ground surface and shall be screened with 16-mesh, brass, bronze, copper screen or other screen materials approved by the Kansas Department of Health and Environment and turned down in a full one hundred eighty (180) degree return bend so as to prevent the entrance of contaminating materials.

4-8.6 Temporary Capping

All wells, when unattended during construction, reconstruction, treatment or repair, or during use as cased test holes, observation or monitoring wells, shall have the top of the well casing securely capped in a watertight manner to prevent contaminating or polluting materials from gaining access to the groundwater aquifer.

4-8.7 Sanitary Well Seal

The top of the well casing shall be sealed by installing a sanitary well seal which has been approved by KDHE.

4-8.8 Pump Pit

- a. Any pump pit shall be constructed at least two feet away from the water well. The pipe from the pump or pressure tank in the pump pit to the water well shall be sealed in a watertight manner where it passes through the wall of the pump pit.
- b. Water wells shall not be constructed or reconstructed in pits, basements, garages or crawl spaces.

4-8.9 Pump Mounting

- a. All pumps installed directly over the well casing shall be so installed that an airtight and watertight seal is made between the top of the well casing and the gear or pump head, pump foundation or pump stand.
- b. When the pump is not mounted directly over the well casing and the pump column pipe or pump suction pipe emerges from the top of the well casing, a sanitary well seal shall be installed between the pump column pipe or pump suction pipe and the well casing. An airtight and watertight seal shall be provided for the cable conduit when submersible pumps are used.

4-8.10 Cleaning of Well

Prior to completion of a constructed or reconstructed well, the well shall be cleaned of mud, drill cuttings and other foreign matter so as to make it suitable for pump installations.

4-8.11 Toxic Materials

Toxic materials shall not be used in the construction, reconstruction, treatment or plugging of a water well unless those material are thoroughly flushed from the well prior to use.

4-8.12 Natural Organic or Nutrient Producing Material

Natural organic or nutrient producing material shall not be used during the construction, reconstruction or treatment of a well unless it is thoroughly flushed from the well and the groundwater aquifer or aquifers before the well is completed. Natural organic or nutrient producing material shall not be added to a grout mix used to grout the well's annular space.

4-8.13 Disinfection

Water well disinfection for wells constructed or reconstructed for human consumption or food processing.

- a. Gravel for gravel-packed wells shall be disinfected by immersing the gravel in chlorine solution containing not less than two hundred (200) milligrams per liter (mg/l) of available chlorine before it is placed in the wells annular space.
- b. Constructed or reconstructed wells shall be disinfected by adding sufficient hypochlorite solution to them to produce a concentration of not less than one hundred (100) mg/l of available chlorine when mixed with water in the well.
- c. The pump, casing, screen and pump column shall be washed down with a two hundred (200) mg/l available chlorine solution.
- d. All persons constructing, reconstructing, or treating, a water well and removing the pump or pump column, replacing a pump, or otherwise performing an activity which has potential for contaminating or polluting the groundwater supply shall be responsible for adequate disinfection of the well, well system and appurtenances thereto.
- e. All drilling waters used during the construction or reconstruction of any water well shall be initially disinfected by mixing with the water enough sodium hypochlorite to produce at least one hundred (100) milligrams per liter (mg/l) of available chlorine.

SECTION 9 ABANDONED WELLS

4-9.1 All abandoned wells shall be plugged in accordance with Kansas Department of Health and Environment regulation.

SECTION 10 GENERAL OPERATING REQUIREMENTS

4-10.1 Water Well Record

- a. A water well contractor who constructs, reconstructs or plugs a water well shall submit a copy of the water well record, form WWC-5, to the Lawrence-Douglas County Health Department and the Kansas Department of Health and Environment within thirty (30) days after the construction, reconstruction or plugging of the water well. The copy sent to the Lawrence-Douglas County Health Department shall be mailed to: 200 Maine Street, Suite B, Lawrence, Kansas 66044.
- b. A landowner who constructs, reconstructs or plugs a water well which will be or was used by the landowner for farming, ranching or agricultural purposes or is located at the landowner's place of abode, shall submit a copy of the water well record, form WWC-5, to the Lawrence-Douglas County Health Department and the Kansas Department of Health and Environment within thirty (30) days after the construction, reconstruction or plugging of the water well.

4-10.2 Artificial Recharge and Return. The Construction of artificial recharge wells and freshwater return wells shall comply with all applicable rules and regulations of the Kansas Department of Health and Environment.

4-10.3 Well Tests. When a pumping test is run on a well, results of the test shall be reported on the water well record, form WWC-5, or a copy of the contractor's record of the pumping test shall be attached to the water well record.

4-10.4 Water Samples.

- a. Within 30 days after receipt of the water well record, form WWC-5, the Kansas Department of Health and Environment or Lawrence-Douglas County Health Department may request the contractor, or landowner who constructs or reconstructs his or her own water well, to submit a sample of water from the well for chemical analysis.
- b. All wells constructed or reconstructed after September 20, 1993, should be sampled for coliform bacteria and parts per million (ppm) of nitrate-nitrogen. A fee may be charged by the Lawrence-Douglas County Health Department for the service.
- c. Samples of water from any water supply may be taken and examined by the Lawrence-Douglas County Health Department whenever deemed necessary for the detection of pollution, compliance or unwholesomeness. The Lawrence-Douglas County Health Department may refuse to take or examine samples of water from any water supply which is not adequately protected from surface contamination.
- d. The Lawrence-Douglas County Health Department may condemn and prohibit use or require repairs of any water supply which is determined to be a present danger to the public health.

SECTION 11 CROSS-CONNECTION AND BACK-SIPHONAGE

4-11.1 No person shall install and maintain a cross-connection between any public water supply and any other water supply.

Table 1

**Kansas Department of Health and Environment Approved
Water Well Casing [Authorization K.A.R. 28-30-6(h)]**

Water Well Casing for Water Wells other than Public Water
Supply and Reservoir Sanitation Zone Water Wells

Steel and Wrought Iron

Minimum Wall Thickness

Depth of Casing (Feet)	Nominal Diameter (Gauge or Inches)*									
	4	6	8	10	12	14	16	18	24	30
0-100	10	10	10	10	10	10	10	10	7	0.219
100-200	10	10	10	10	10	7	7	7	0.219	0.219
200-400	10	10	10	10	7	7	7	0.219	0.250	0.250
400-600	7	7	7	7	7	7	0.219	0.250	0.312	0.312
600 or more	7	0.219	0.219	0.219	0.219	0.219	0.250	0.375	0.375	0.375

* Whole numbers indicate the U.S. standard gauge (10 gauge = 0.141 inches and 7 gauge = 0.179 inches).

*Decimal numbers indicate thickness in inches

Table 2

Kansas Department of Health and Environment Approved Water Well Casing
[Authorization K.A.R. 28-30-6(h)]

Water Well Casing for Water Wells other than Public Water Supply and Reservoir Sanitation Zone Water Wells

Thermalplastic Polyvinyl

Chloride (PVC)

Styrene Rubber (SR) which is the same as Rubber Modified Polystyrene (RMP)
Acrylonitrile-Butadiene-Strylene (ABS)

Minimum Wall Thickness (Inches) and Tolerances (Inches) made in
Standard Dimension Ratios (SDR)

Nominal Pipe Size	SDR 26		SDR 21		SDR 17		SDR 13.5	
	Minimum	Tolerance	Minimum	Tolerance	Minimum	Tolerance	Minimum	Tolerance
2			0.113	0.02	0.14	0.02	0.176	0.021
2.5			0.137	0.02	0.169	0.02	0.213	0.025
3			0.167	0.02	0.206	0.025	0.259	0.031
3.5			0.19	0.023	0.235	0.028	0.296	0.036
4	0.173	0.021	0.214	0.026	0.265	0.032	0.333	0.040
5	0.214	0.027	0.265	0.032	0.327	0.039	0.412	0.049
6	0.255	0.031	0.316	0.038	0.39	0.047	0.491	0.058
8	0.332	0.04	0.41	0.049	0.508	0.061		
10	0.413	0.05	0.511	0.061	0.632	0.076		
12	0.490	0.059	0.606	0.073	0.75	0.09		
14	0.539	0.065						
16	0.616	0.074						

Table 3

Location of Water Well

See 4-9.2 – Location Restrictions

Minimum Horizontal Distance (Feet) Required

from:	to Water Well
Utility line	15
Property line, allowing public right-of-way to be counted	25
Residential building or any other building which has the potential to be treated for termites	50
Septic tank	50
Surface water course, creek bank, stream, pond, river, or lake (p. 50 4, KDHE bulletin 4-2, or as amended)	50
Abandoned cesspool	100
Inactive well	100
Barnyard or feedlot	100
Waste stabilization pond (lagoon)	100
Manure storage	100
Pit privy	100
Septic system absorption field	100
Chemical storage	150
Fertilizer storage	150
Fuel storage	150
Pesticide storage	150
Landfill	150

**SANITARY CODE
DOUGLAS COUNTY, KANSAS**

CHAPTER 5 SEPTAGE WASTE HAULERS

SECTION 1 SEWAGE REMOVAL PERMIT

5-1.1 No person, firm or corporation may remove, transport, or dispose of the contents of septic tanks, or onsite sewage management systems without having first obtained from the Lawrence-Douglas County Health Department an annual sewage removal permit. The application for the permit shall be submitted in writing on forms provided by the Health Department.

5-1.2 The application shall include:

- a. Business name and address.
- b. Name and address of the applicant.
- c. License tag number and identification number of vehicle.
- d. Manner by which such contents are to be removed, transported, and given final disposal.
- e. Written documentation that sewage removed and transported will be accepted at disposal sites.

5-1.3 A fee shall be charged by the Health Department for the Sewage Removal Permit.

SECTION 2 DISPOSAL METHODS

5-2.1 Disposal of sewage from onsite sewage management systems shall be by:

- a. Discharge to a public or community sewerage system, or

- b. By another method and disposal site approved by the Lawrence-Douglas County Health Department. Disposal shall require written permission of the appropriate governmental jurisdiction or land owner and the Health Department.

5-2.2 Septage shall be pumped from the septic tank manhole, and not from the inspection risers.

SECTION 3 ADDITIONAL REQUIREMENTS FOR LAND APPLICATION OF SEPTAGE

5-3.1 The licensee shall comply with all the requirements mandated under Title 40, Part 503, of the Code of Federal Regulations.

5-3.2 All land application sites shall be inspected and approved in writing by the Health Department prior to any land application use.

5-3.3 Application rates shall not exceed 30,000 gallons per acre, per year.

5-3.4 No land application sites activated into service after the effective date of this Sanitary Code shall be permitted within the FEMA-designated 100-year floodplain.

5-3.5 No application onto any surface such as frozen or saturated soil shall be permitted, if any run-off to the waters of the State is likely to occur.

5-3.6 No land application sites shall be permitted within 100 feet of a property line.

5-3.7 No septage application shall be permitted into a private wastewater lagoon or sanitary landfill.

5-3.8 No application shall be permitted within one-half mile of a public water supply well.

SECTION 4 VEHICLE IDENTIFICATION

5-4.1 The name of the person or firm engaging in the removal of sewage from onsite sewage management systems shall be lettered on both sides of each vehicle used for sewage removal purposes. Letters and numerals shall not be less than two (2) inches in height.

SECTION 5 VEHICLE MAINTENANCE

5-5.1 Every vehicle used for removal of sewage from onsite sewage management systems shall be equipped with a watertight tank or body. All pumps, hose lines, valves and fittings shall be maintained so as to prevent leakage. The operator shall demonstrate that the equipment is in good operating condition and will perform its function without leakage or spillage.

SECTION 6 REVOCATION OF SANITARY SERVICES LICENSE

6-1.1 A permit may be revoked for failure to comply with these regulations. -

ARTICLE 6. FAIR HOUSING

3-601 KANSAS ACT AGAINST DISCRIMINATION; ENDORSEMENT. The Board of County Commissioners hereby endorses and affirmatively supports the provisions of the Kansas Act Against Discrimination which prohibits discrimination in housing practices. The statutory provisions found in K.S.A. 44-1015 et seq. prohibit discrimination in the sale or rental of real property, or in the provision of services or facilities in connection therewith because of race, religion, color, sex, national origin or ancestry. The board affirms its commitment to the principles contained in K.S.A. 44-1015 et seq., and urges any person who believes he or she is the victim of a discriminatory housing practice in violation of such law to file a complaint with the Kansas Commission on Civil Rights. (Res. 89-26, Sec. 1)

3-602 SAME; COPIES. In furtherance of the anti-discrimination provisions of the Kansas Act Against Discrimination, the Board of County Commissioners shall keep on file in its office and in the office of the Douglas County Clerk copies of the Kansas Act Against Discrimination and the complaint procedures handbook of the Kansas Commission on Civil Rights. Any individual who is

interested in reviewing such information will be afforded that opportunity upon request. (Res. 89-26, Sec. 2)

CHAPTER 4. CABLE TELEVISION

Article 1. CABLE TELEVISION 1

ARTICLE 1. CABLE TELEVISION

4-101 DEFINITIONS.

- a) Person means any individual, partnership, association, corporation, legal entity or organization of any kind.
- b) Cable Television System means a system composed of, without limitations, antenna, cables, wires, lines, towers, wave guides, or any other conductors, converters, equipment or facilities for the purpose of the distribution on a community antenna television system of television programs by means of high antenna or microwave transmission amplified and distributed by coaxial cable to the premises of its subscribers.
- c) Franchise means a nonexclusive authorization to use the roads, public ways and dedicated easements of the county to construct, operate, maintain or lease a cable television system and provide cable television service within the unincorporated areas of the county. (HR 85-7-1, Sec. 7)

4-102 REGULATORY PURPOSE. The county shall supervise and regulate all cable telephone service business operating within the unincorporated areas of the county so far as may be necessary to prevent such operation and service from having detrimental consequences to the public interest. For this purpose the county may promulgate and enforce such reasonable rules and regulations as it may deem necessary with reference to commencement of operation, territory of operation, the extension of service equitably to all parts of the franchise area, abandonment of facilities, elimination of unjust discrimination among subscribers, financial responsibility, insurance covering personal injury and property damage, safety of equipment, use of streets, alleys, dedicated easements and other public places, and reasonable grounds for forfeiture of franchise rights. (HR 85-7-1, Sec. 1)

4-103 FRANCHISE REQUIRED. It shall be unlawful for any person, firm or corporation acting in its own behalf or under a lease with or pole contract from any public utility to construct, install, operate or maintain a cable television service in, on, over, under, upon, across, from and along the streets, alleys, sidewalks, public property and public ways within the unincorporated areas of

- the county without first obtaining from the county a franchise authorizing the same under such reasonable conditions as the circumstances may require. The county hereby is authorized to grant or extend one or more such franchises for a term not to exceed 20 years from the date of such grant or extension. No person, firm or corporation shall ever be granted an exclusive franchise. Such franchises shall take the form of a resolution authorizing the construction, operation, and maintenance of cable television systems, shall set forth conditions accompanying the grant of franchise, shall provide for regulation and use of the system, shall provide penalties for violation of the franchise provisions, and shall provide for a franchise fee. (HR 85-7-1, Sec. 2)
- 4-104 FILING OF PROPOSED RATES. Every applicant for a franchise shall file with the county a schedule of its proposed rates and charges for its proposed services. (HR 85-7-1, Sec. 3)
- 4-105 FILING OF MAP OF FACILITIES. There shall be filed with the county by the person, firm or corporation providing cable television service a proper map showing and describing the exact location of all of its facilities within the county streets, alleys and public ways including underground cables and equipment. (HR 85-7-1, Sec. 4)
- 4-106 FRANCHISE FEE. The county by resolution shall levy a franchise fee or tax, including annual fixed charges as may be prescribed in the franchise resolution. Such fixed charge may consist of a percentage of the gross receipts derived from the service permitted by the franchise from consumers or recipients of such service located within the unincorporated areas of the county. Such levies, taxes or fees including all forms of consideration to such county and including initial lump sum payments must be reasonable and shall be generally in conformance with standards, if any, established by Federal Communications Commission regulations or other applicable laws. (HR 85-7-1, Sec. 5)
- 4-107 VIOLATION OF FRANCHISE, PROHIBITION OF OPERATION WITHOUT FRANCHISE. In the event of violation of any county franchise provision, by any duly franchised person or entity furnishing cable television service, the county before taking any action to declare a forfeiture shall serve written notice of such violation upon the franchise holder with directions to correct such violation, or show cause why such violation should not be corrected at a public hearing held not less than 30 days from the date of service of such written notice. Continued violation of any county franchise provision of this

chapter may be enjoined by the district court. Any person, firm or corporation acting in its own behalf or under a lease with or pole contract from any public utility which attempts to or does construct, install, operate or maintain a cable television service in, on, over, under, upon, across, from or along the roads, alleys, sidewalks, public property and public ways within the unincorporated area of the county without possessing a valid franchise from the county as authorized by this chapter shall be guilty of a Class C misdemeanor. Each day such act continues shall constitute a separate offense. (HR 85-7-1, Sec. 6)

CHAPTER 5. EMERGENCY MANAGEMENT AND EMERGENCY MEDICAL SERVICES

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ARTICLE 1. DOUGLAS COUNTY EMERGENCY MANAGEMENT DEPARTMENT

5-101 DEFINITIONS. As used in Articles 1 and 2:

- a) Board means the Douglas County Emergency Management Board, as established by a Joint Cities-County Emergency Management Resolution, as amended from time to time, among the County of Douglas in the State of Kansas; the City of Baldwin City, Kansas; the City of Eudora, Kansas; the City of Lawrence, Kansas; and the City of Lecompton, Kansas, or as the County may elect to establish independently in the absence of any applicable, current, and effective joint resolution.
- b) Cities means the cities of Baldwin City, Eudora, Lawrence, and Lecompton in the State of Kansas.
- c) County means the County of Douglas in the State of Kansas.
- d) DCEM means the Douglas County Emergency Management Department, as established in this Chapter 5 of the Douglas County Code.
- e) Director or Director of the DCEM means the chief operational officer of the Douglas County Emergency Management Department.
- f) Disaster means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or manmade cause, including, but not limited to, fire, flood, earthquake, wind, storm, epidemics, contagious or infectious disease, air contamination, blight, drought, infestation, explosion, riot, terrorism, or hostile military or paramilitary action.
- g) Emergency Management means the preparation for and the carrying out of all emergency functions, other than functions for which military forces or

other federal agencies are primarily responsible, to prevent, minimize, and repair injury and damage resulting from disaster emergencies.

- 5-102 DOUGLAS COUNTY EMERGENCY MANAGEMENT DEPARTMENT ESTABLISHED. The Emergency Management Division of the Department of Emergency Medical Services and Management is hereby abolished, and there is hereby established the Douglas County Emergency Management Department (DCEM) for the purposes of, before, during, and after disaster emergencies: (1) coordinating the administration, planning, and execution of emergency management and preparedness activities in Douglas County; and (2) providing for the preparation and execution of disaster management plans for the protection of persons and property within the County, in accordance with the provisions and requirements of K.S.A. 48-904 through 48-939, and K.A.R. 56-2-1, *et seq.*, specifying the standards for local disaster agencies. All of the powers, duties, functions, and budget authority of the Emergency Management Division within the Department of Emergency Medical Services and Management are hereby transferred to and conferred and imposed upon the DCEM.
- 5-103 ADMINISTRATION. The DCEM shall be administered by a Director, who shall be appointed by the County Administrator. The Director shall serve as the “coordinator,” as defined in K.A.R. 56-2-1(c) and for purposes of K.A.R. 56-2-2. The Director shall be granted the authority necessary to supervise and manage the DCEM and carry out the DCEM’s duties, responsibilities, and functions enumerated in this Article, including but not limited to developing and administering programs to effectively prevent, minimize, and repair injury and damage resulting from all types of disaster emergencies.
- 5-104 SUCCESSION. In normal operational circumstances when the Director is unavailable, a designated Deputy Director shall assume the duties and responsibilities of the Director. In a disaster or extreme emergency situation where the Director is unavailable, the Deputy Director or their designee shall assume the duties and responsibilities of the Director. If the Deputy Director and their designee are both unavailable, the Douglas County Sheriff shall assume the duties and responsibilities of the Director.
- 5-105 SUPPORT TO THE DCEM. Douglas County shall provide for the establishment, staffing, operation, and support of the DCEM, and such support shall, at a minimum, include the following:
- a) County-provided office space and clerical support sufficient to perform the required emergency preparedness functions;

- b) County-provided transportation or reimbursement for private transportation used for official duties;
- c) County-provided communications arrangement for 24-hour a day notification of the DCEM; and
- d) Designation of one or more persons to act as an alternate disaster agency head for the DCEM when the Director is not available.

5-106 COOPERATION. All agencies and employees of Douglas County shall cooperate with the DCEM in all matters pertaining to emergency management and preparedness.

5-107 RESPONSIBILITIES AND FUNCTIONS OF DCEM.

- a) The DCEM shall be the Douglas County “disaster agency” as required by K.S.A. 48-929(a).
- b) The DCEM shall be responsible for the administration of all state laws and County Codes and Resolutions concerning emergency preparedness and management. The DCEM shall coordinate its activities with all federal, state, and local agencies as required to effectuate all state laws and County Codes and Resolutions concerning emergency preparedness and management.
- c) The DCEM's basic functions, as carried out under the direction of the Director, shall include the following:
 - 1) Coordination of response and recovery activities during and following a disaster emergency;
 - 2) Development and maintenance of a local hazard analysis;
 - 3) Development of a local emergency planning program and maintenance of an all-hazard emergency operations plan;
 - 4) Implementation of a local technological hazards program which includes participation on the local emergency planning committee as provided for in K.S.A. 65-5703 and the development and coordination of a radiological protection program for the County;
 - 5) Development and maintenance of an active public education program, both through direct public presentations and contacts with the local news media;
 - 6) Development and coordination of a local emergency exercise program to test the capability of the Cities and the County to implement the emergency operations plan;

- 7) Development and coordination of a County emergency preparedness training program to enhance the readiness capability of governmental agencies, volunteers, citizens, private sector agencies, businesses, and first responders;
- 8) Development and coordination of County hazard warning and notification systems to notify the public of impending threats or other emergency information;
- 9) Coordination of all requests for assistance from other jurisdictions, and the state and federal governments during a disaster emergency;
- 10) Identification of mitigation actions necessary within the County to prevent hazards or to lessen their impact; and
- 11) Provision of advice and assistance to the County Commission in preparation of emergency declarations under K.S.A. 48-932.

5-108 NOTIFICATION OF CHANGES. Pursuant to K.A.R. 56-2-2(c), the County will provide the State Division of Emergency Management with official written notification within ten (10) working days of: any changes to these Code provisions relating to emergency management; any changes in the job description of the Director of the DCEM; or any change as to the identity of the individual serving as the Director of the DCEM.

5-109 QUARTERLY REPORTS AND ANNUAL STATEMENTS. The County will provide the State Division of Emergency Management with: quarterly activity reports, as required by K.A.R. 56-2-2(d); and annual statements of local emergency preparedness goals, anticipated work, and requested state and federal assistance for the next federal fiscal year, as required by K.A.R. 56-2-2(e).

[Res. No. 25-04, Sec. 1]

ARTICLE 2. THE BOARD

5-201 PURPOSES. The Board shall: (a) serve the DCEM in an advisory capacity and provide additional support to the DCEM, to the extent deemed necessary and appropriate by the Director; and (b) serve as the local emergency planning committee for the Douglas County emergency planning district, as provided in K.S.A. 65-5703 and K.S.A. 65-5722, and under federal law, and shall, in that capacity, carry out the County's requirements under Kansas and federal laws as they relate to the responsibilities of local emergency planning

committees, and as specified in K.S.A. 65-5701 through 65-5733 and the Federal Emergency Planning and Community Right-to-Know Act of 1986.

5-202 BOARD ORGANIZATION, MANAGEMENT, AND GOVERNANCE. The Board shall be organized, managed, and governed according to the terms and conditions of any applicable joint resolution of the County and the Cities that may be in effect at any given time, and by any bylaws adopted by the Board thereunder.

5-203 INDEPENDENCE OF COUNTY IN ABSENCE OF JOINT RESOLUTION. In the absence of any applicable, current, and effective joint resolution of the County and Cities, the County shall be free to independently organize, manage, and govern one or more independent bodies to serve in an advisory capacity to the DCEM and/or to serve as a local emergency planning committee solely to satisfy the County's own obligations under state and federal law.

[Res. No. 25-04, Sec. 1]

ARTICLE 3. RECOVERY OF EXPENSES FOR RELEASE OF HAZARDOUS MATERIAL

5-301 DEFINITIONS. As used in this Article:

- a) County shall mean the County of Douglas in the State of Kansas.
- b) Emergency action shall mean all of the concerted activities conducted in order to prevent or mitigate injury to human health or the environment from a release or threatened release of a hazardous material into or upon the environment.
- c) Governmental entities shall mean the University of Kansas; the Cities of Baldwin City, Eudora, Lawrence, and Lecompton; the County; rural fire districts; townships; and any entity responding under a mutual aid agreement with any of these entities.
- d) Hazardous material means any substance or material in a quantity or form which may be harmful or injurious to the health and safety of humans, animals, crops, or property when released into the environment. Hazardous material includes, but is not limited to, explosives, radioactive materials, disease-causing agents, flammable liquids, solids or gases, combustible liquids, poisons, poisonous gases, oxidizing materials, corrosive materials, irritants, nonflammable gases, cryogenics, and blasting agents.

- e) Person shall mean any firm, partnership, association of persons, corporation, organization, or other group acting as a unit, as well as any individual.
- f) Recoverable expenses are all those expenses that are reasonable and necessary for the emergency action. Recoverable expenses include, but are not limited to:
 - 1) Disposable materials and supplies acquired, consumed, or expended specifically for the purpose of the emergency action.
 - 2) Any additional compensation payment to employees, consultants, and/or contractors for the time and efforts devoted to the emergency action beyond the usual compensation of those employees, consultants, and contractors normally on duty. There must be an explicit request for mutual or outside aid from the agency with jurisdiction for these additional expenses to be recoverable. (The usual compensation of employees, consultants, and contractors normally on duty is not intended to be a recoverable expense.)
 - 3) Rental or leasing of equipment used specifically for the emergency action (e.g., protective equipment or clothing, scientific and technical equipment.)
 - 4) Replacement costs for equipment that is owned by the governmental entity and is contaminated beyond reuse or repair.
 - 5) Decontamination of equipment contaminated during the emergency action.
 - 6) Other special services specifically required for the emergency action.
 - 7) Laboratory costs of analyzing samples taken during the emergency action.
 - 8) Costs of clean-up, storage, or disposal of the release material.
 - 9) Costs associated with the services, supplies and equipment procured for a specific evacuation.
 - 10) Medical expenses incurred as a result of emergency action.
 - 11) Legal expenses incurred as a result of the emergency action, including efforts to recover expenses pursuant to this Article.
- g) Release shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injection, escaping, leaching, dumping, or disposing into or upon the environment.

- h) Threatened release shall mean a condition which exists when a release is likely to occur unless preventive measures are immediately taken to prevent such release.

5-302 LIABILITY. Any and all persons responsible for a release or threatened release of hazardous material which constitutes or results in an emergency action shall be liable to the governmental entities for the recoverable expenses resulting from the emergency action.

5-303 RECOVERY OF EXPENSES.

- a) The staffs of the governmental entities involved in the emergency action shall keep a detailed record of the governmental entity's recoverable expenses resulting from the emergency action. Promptly after completion of the emergency action, the staffs shall certify these expenses to the Director of the Douglas County Emergency Management Department. The Director, or his or her designee, shall have the option (but not any obligation) to give any and all persons responsible for the emergency action a written itemized claim for the total certified expenses incurred by each governmental entity as part of the emergency action. Any such claim may specify that, if not paid in full within thirty (30) calendar days, the County and/or other governmental entities may initiate civil litigation for collection of amounts due. Moneys recovered under this Article shall be credited to the appropriate funds of the governmental entity from which moneys were expended in performing the emergency action.
- b) The County Administrator is hereby authorized to have legal action brought on behalf of the County to recover any funds due which have not been paid in full within the specified thirty (30) calendar days.
- c) The County Administrator is hereby authorized to have legal action brought on behalf of the County to recover any funds due which have not been paid in full within the specified thirty (30) calendar days.

5-304 NON-EXCLUSIVITY OF REMEDY. The civil remedies provided in this Article shall be in addition to, and not in lieu of: (1) any criminal prosecution or penalty to which a person may be subject; and (2) any other remedies the governmental entities may be entitled to seek, at law or in equity, in any judicial, administrative, or other forum. Further, the civil remedies provided in this Article shall not preclude the County, Lawrence-Douglas County Fire Medical, or another person or entity providing ambulance and/or emergency medical services on behalf of the County from participating in a claim and/or assessing fees for service in accordance with the then-applicable fee schedule.

5-305 HAZARDOUS MATERIALS INCIDENT COMMAND AGENCY. To the extent any such designation may be required by state or federal law, Lawrence Douglas County Fire Medical is hereby designated as the hazardous materials incident command agency for Douglas County and all cities therein.

[Res. No. 25-04, Sec. 1]

ARTICLE 4. EMERGENCY MEDICAL AND AMBULANCE SERVICES.

5-401 DEFINITIONS. As used in this Article 4 and in Article 5, below:

- a) Ambulance means any privately or publicly owned motor vehicle designed, constructed, prepared, staffed and equipped for use in transporting and providing emergency care for individuals who are ill or injured. For purposes of this Article, the term “ambulance” shall not include helicopters or airplanes.
- b) Ambulance Service means any organization licensed by the EMS Board to operate Ambulances in the State of Kansas, staffed by attendants who are licensed by the EMS Board to provide emergency medical services.
- c) City means the City of Lawrence, Douglas County, Kansas, having geographical limits as now existing or hereinafter altered.
- d) County means the County of Douglas in the State of Kansas.
- e) Emergency Transport, as distinguished from Non-Emergency Transfer (defined below), means the care and transport by Ambulance of a sick or injured person to a hospital facility, including such transport between a hospital facility and a tertiary or specialized Hospital Facility when a delay in transportation could reasonably be expected to place the patient’s health in serious jeopardy, seriously impair bodily functions, or result in serious dysfunction of any bodily organ or part.
- f) EMS Board means the State of Kansas Emergency Medical Services Board.
- g) Hospital Facility means a hospital, medical center, or other facility offering a full range of medical services in an in-patient setting and operating twenty-four hours per day, seven days per week. It does not include clinics, skilled nursing facilities, or other satellite facilities owned or operated by a hospital system.
- h) LDCFM means Lawrence-Douglas County Fire Medical.
- i) Non-Emergency Transfer, as distinguished from Emergency Transport (defined above) means either:

- 1) The care and transport by Ambulance of a patient from one hospital facility to any other hospital facility when a delay in transportation could not reasonably be expected to place the patient's health in serious jeopardy, seriously impair bodily functions, or result in serious dysfunction of any bodily organ or part. This includes, without limitation, transfers to allow patients to be cared by specific physicians or hospital systems, as well as transfers for scheduled procedures.
 - 2) The care and transportation by Ambulance of a patient from a hospital facility to a lower level of care, including without limitation to the patient's permanent or temporary residence, or to any nursing or rehabilitation facility.
- j) Medical Director means the physician under whose medical license the organization providing Emergency Transport services (currently LDCFM) operates.
 - k) Operator means a person or municipality who has a license granted pursuant to this Article to operate an ambulance service within the County and the City.
 - l) Person means any firm, partnership, association of persons, corporation, organization, or other group acting as a unit, as well as any individual.
 - m) Regularly offers and provides means initiating ambulance service within either the County or the City.
 - n) Rules and Regulations promulgated by the EMS Board means duly adopted regulations of the Emergency Medical Services Board as now existing or hereinafter adopted or amended.
 - o) Shall is always mandatory and not merely directory.
 - p) Specialty Services are ambulances and attendants possessing the equipment and training to provide medical care and/or services to patients outside the capabilities of a standard ambulance. Examples include, but are not limited to, critical care transport, mobile NICU, bariatric transport units, and maternal/fetal transport units.
 - q) Surrender means the voluntary relinquishment of the rights and duties conferred by a license for the unexpired term of such license by action of the operator.
 - r) Termination means the involuntary withdrawal of the rights and duties conferred by the license for the unexpired term of such license by action of the City and the County, pursuant to the authority of this Article.

- 5-402 EMERGENCY MEDICAL SERVICES. Douglas County will provide emergency medical services (EMS) and ambulance services within the County.
- 5-403 MEANS OF PROVIDING EMS AND AMBULANCE SERVICE. The County will provide EMS and ambulance services in one or more of the following ways, as determined by the County Administrator and subject to approval by the County Commission: (a) by using County personnel and equipment; (b) by entering into a contract or other agreement to combine or coordinate its activities, facilities and personnel with those of any person or governmental entity for the purpose of furnishing the emergency medical services or ambulance services within or without the municipality (K.S.A. 65-6116(d)); (c) by entering into contracts for the construction, operation, management, maintenance and supervision of emergency medical services or ambulance services with any person or governmental entity (K.S.A. 65-6116(b)); or (d) as otherwise authorized by applicable law.
- 5-404 EMERGENCY TRANSPORTS AND NON-EMERGENCY TRANSFERS. Subject to other provisions of this Article and of Article 5, below, the County recognizes that, to the extent LDCFM is furnishing any EMS and/or ambulance services on behalf of the County, LDCFM will be primarily responsible for Emergency Transports within the County and will have the option, but not any obligation, to undertake Non-Emergency Transfers. Pursuant to the provisions of this Article 4 and of Article 5, below, the County may authorize and license third-party private ambulance service Operators to provide Non-Emergency Transfers within the County. In addition, the County may empower LDCFM to dispatch, manage, and otherwise supervise any such authorized and licensed third-party ambulance service Operators. If a platform exists for LDCFM and/or Douglas County Emergency Communications to provide computer aided dispatching of appropriate transfer assets in an efficient and equitable manner, that platform may be used for the deployment of these specific transfer assets.

The Medical Director may authorize ambulance service operators licensed for Non-Emergency Transfers to provide Specialty Services (as defined above) during transportation between hospital facilities and/or from hospital facilities to a lower level of care. This authorization will be predicated on the ambulance service operator's demonstration of their ability to provide one or more types of Specialty Services to the Medical Director's satisfaction. The authorization will delineate the specific type(s) of Specialty Services the

ambulance service operator is authorized to provide. The Medical Director may revoke this authorization, in whole or in part, at any time.

5-405 ADMINISTRATION. The County Administrator will oversee and administer the program by which EMS and ambulance services are provided by the County. The County Administrator is hereby given the authority to negotiate contracts or other agreements for the provision of EMS and ambulance services within the County, in accordance with sections 5-403 and 5-404 herein, for ultimate approval by the County Commission. The County Administrator is further authorized annually to establish EMS and ambulance fees, including, at the County Administrator's discretion, any separate fees associated with Emergency Transports and with Non-Emergency Transfers. The County Administrator is further authorized to collaborate with the City of Lawrence to establish fees specifically associated with services provided by LDCFM, if and to the extent that LDCFM is furnishing EMS and/or ambulance services on behalf of the County.

5-406 COMPLIANCE WITH LAW. The County's provision of EMS and ambulance services will be in compliance with all applicable federal, state, and local laws and regulations pertaining to such services. Any person or entity providing such services on behalf of the County must comply with all said laws and regulations at all times. Failure to comply with said laws will be grounds for termination and debarment from providing EMS and ambulance services on behalf of the County, with such determination to be made by the County Administrator. Any person aggrieved by a determination by the County Administrator of termination or debarment pursuant to this section may appeal the determination to the County Commission.

[Res. No. 25-04, Sec. 1]

ARTICLE 5. AMBULANCE SERVICE LICENSE REQUIREMENTS AND REGULATIONS

5-501 LICENSE REQUIRED FOR OPERATION OF AMBULANCE SERVICE; PROHIBITION AND PENALTY. No person except those awarded a joint City County license pursuant to this Article shall use the streets or other public ways of the City or the County to operate an ambulance service which regularly offers and provides Emergency Transports or Non-Emergency Transfers to residents of the City or the County. No person shall regularly offer and provide an ambulance or ambulance service within the City or the County which is in violation of the provisions of this Article. Both the City and the County shall independently have authority to seek and obtain legal remedies to enforce the provisions of this Article, including without limitation

authority to seek and obtain injunctive relief to prohibit persons from providing ambulance services in violation of the provisions of this Article.

- 5-502 TYPE OF SERVICE REQUIRED FOR LICENSED OPERATION. Any Operator granted a license by the City and County shall maintain compliance with all rules and regulations of the EMS Board. All equipment, personnel, and services offered and provided by the Operator shall conform to such regulations.
- 5-503 FINDING PREREQUISITE TO ISSUANCE OF AMBULANCE LICENSE. No person shall engage in the operation of any ambulance service nor shall any license be granted to operate an ambulance service pursuant to this Article until (a) the County Commission approves the granting of the license and (b) the governing body of the City approves the granting of the license. For purposes of this Article, the license awarded shall be considered a joint non-exclusive license from both the City and the County, requiring the approval of the City and the County prior to issuance, suspension, removal, or conditioning. Before approving the granting of a license, both the City and the County shall first find that public convenience will be promoted and that public necessity requires such ambulance service under the terms and provisions of this Article.
- 5-504 APPLICATION FOR LICENSE. Any person may apply for a license to operate an ambulance service, whether the applicant intends to provide Emergency Transports, Non-Emergency Transfers, or both, by filing with the City Clerk an application for such license on such forms and containing such information as the Medical Director, City, and County shall require, including, but without limitation, the following:
- a) The name and address of the applicant, or, if a firm, partnership, association, corporation, municipal corporation, company, or organization of any kind, the names and addresses of all persons owning a financial interest therein.
 - b) The number and type of ambulances proposed to be operated by the applicant, together with a current state license for each vehicle.
 - c) The type(s) of transportation services the applicant will provide (defined above):
 - 1) Emergency Transport
 - 2) Non-Emergency Transfer
 - d) The location, description, and zoning of the place or places from which such ambulances are intended to operate. In the event a special permit

exists for any such location, the date special permit for such location was issued by the City or the County.

- e) Copies of all necessary and required certificates, permits, licenses, and other documentation evidencing that the applicant is in full compliance with all federal, state, and local laws regulating basic life support care, advanced life support care, and ambulance transport services.
- f) A copy of the proposed liability insurance policy which complies with this Article.
- g) A verified financial statement of the Operator at the time the application is submitted.
- h) A list of the proposed charges to be made by the applicant for services rendered to the public in the event a license is awarded under the provisions of this Article.
- i) A request for inspection of equipment as required by this Article.

5-505 RECOMMENDATION OF MEDICAL DIRECTOR, DETERMINATION BY CITY AND COUNTY. After filing of an application for a license the Medical Director shall review the application to determine its sufficiency and compliance with the provisions of this Article. The Medical Director shall forward the application for review and approval or disapproval to both the City and the County. The City and the County shall determine whether the public convenience would be promoted and the public necessity would require such ambulance service. The City and the County shall, after notice, hold public hearings at a regularly scheduled or specially scheduled meeting of such governing bodies, but in no event shall more than forty-five (45) days elapse between the filing of an application and the holding of such hearing. The final decision of the City and the County shall be announced within a reasonable time thereafter, unless the applicant consents to an extension of the time for the announcement of the decision.

- a) In the consideration of whether the public convenience would be promoted and the public necessity would require such ambulance service, the City and the County shall consider, but shall not be limited to the following criteria:
 - 1) Whether the applicant's proposed ambulance service would be an unnecessary duplication of existing ambulance services, including whether existing services adequately serve public needs; and
 - 2) Whether the applicant's proposed ambulance service would harm the financial or operational integrity of existing ambulance services; including whether the proposed ambulance service would cause

existing ambulance services to need public financial assistance, or additional public financial assistance, to continue operations which are viable, efficient and effective.

- 5-506 ISSUANCE; DENIAL. If the City and the County find that the application complies with the requirements of this Article and is otherwise acceptable, a joint non-exclusive license shall be granted by the City and the County and shall be kept on file in offices of the City and the County. In the event the City or the County, or either entity acting separately, finds that the application does not meet the requirements of this Article or is otherwise unacceptable, such license shall not be issued.
- 5-507 TERMS OF LICENSE. The term of each license shall be for five (5) years. Renewal of the license shall be through the same procedure used to obtain an initial license.
- 5-508 SERVICE REQUIREMENTS. The Operator shall at all times during the term of license provide authorized ambulance services to all residents of the City and the County without discrimination on the basis of insurability or economic status of the person or persons to receive ambulance services. The Operator shall at all times during the term of the license provide authorized ambulance services to all geographical areas of the City and the County.
- 5-509 COMPLIANCE WITH APPLICABLE LAWS; REGULATIONS. The Operator shall comply with all applicable federal, state, County, City, and local laws and regulations.
- 5-510 RATES.
- a) The Operator shall at all times comply with the maximum-permitted rates and fee schedules filed with the City Clerk and approved by the City and the County.
 - b) Any proposed change in maximum-permitted rates or the rate schedule shall be filed with the City Clerk at least thirty (30) days preceding the proposed effective date of such rates, accompanied by financial statements and documents from which the reasonableness of such rates can be determined.
 - c) Any proposed change in maximum-permitted rates or the rate schedule shall be submitted to the County and the City for approval. The County and the City may approve any proposed change if such proposal is found to be reasonable as defined in subsection "e."

- d) The County and the City may at no time take any action regarding approval of maximum-permitted rates or the rate schedule which shall prohibit the Operator from earning a reasonable rate of return upon the value of the property used and useful in providing authorized ambulance services. A reasonable rate of return means receipt of revenues from patient charges and public funds, if any, equal to the sum of operating costs, depreciation reserves, and growth and development costs of the Operator.
 - e) "Reasonable rates" means maximum-permitted rates and a rate schedule which, when used as the basis to project future revenues, yield a projected reasonable rate of return as defined in subsection "d". If approved rates do not provide such a reasonable rate of return, subsequently proposed rates shall be approved so as to cure the deficit incurred, as well as to provide a reasonable rate of return.
 - f) The City and the County shall consider the proposed maximum-permitted rates and fee schedules within fifteen (15) days after the filing thereof, provided, however, that the County and the City shall make written approval or disapproval, in whole or in part, of said proposal within twenty (20) days after the filing thereof, unless the Operator consents to a reasonable extension of such deadline.
 - g) If the County and the City take no final action within forty-five (45) days after the filing of such proposal or within a reasonable period of additional time as agreed to by the Operator, the proposal shall be deemed approved and the Operator may institute such rate change thereafter.
- 5-511 INSPECTIONS. Every Operator shall be subject to inspection at any time, at any place within the County, by either the Medical Director or his/her designated representative, in order to determine whether said ambulance service is complying with all applicable laws and regulations of the City, the County, and the State.
- 5-512 INSPECTION OF BOOKS AND RECORDS. Upon request of the City or County, the Operator shall promptly make the books and records of the Operator available for inspection by the City or County, or by a certified public accountant designated by the City or County, at the office of the Operator during regular business hours.
- 5-513 LIABILITY INSURANCE STANDARDS.
- a) During the term of such license and during such time as the Operator is providing service pursuant to such license, there shall be on file with the

City Clerk an insurance policy, approved as to form and endorsed by the City and County, providing liability insurance coverage for each and every ambulance owned, operated, or leased by the Operator.

- b) Minimum coverage of said insurance policy shall be in the amounts of \$1,000,000 for any one person killed or injured in any one accident or occurrence and \$3,000,000 for more than one person injured or killed in any one accident or occurrence, with passenger or patient hazard included in the policy. Such policy shall also provide \$1,000,000 minimum coverage, per-incident, for all damage arising out of injury to or destruction of property.
- c) The City and County shall be expressly designated as additional insureds on each and every liability insurance policy maintained by the Operator.
- d) The Operator shall be solely responsible for the payment of all premiums, commissions, deductibles, and other expenses associated with the required liability insurance policies.

5-514 INSPECTION PREREQUISITE TO ISSUANCE. Before the issuance of any license, the Medical Director his or her designee shall inspect or cause to be inspected the ambulances, equipment, and premises designated in such application. No ambulance service license shall be issued until the Health Officer certifies to the City and the County that the applicant has complied with all state laws and regulations, local ordinances, and county resolutions relating to health, safety, sanitation, and emergency medical service. The licensee shall submit a copy of its annual State license update to the Health Officer.

5-515 RENEWAL OF LICENSE. At any time within ninety (90) days prior to the expiration of a license issued pursuant to this Article and at any time after any expiration, revocation, or surrender of a license issued pursuant to this Article, the Operator may apply for a license for an additional term not to exceed five (5) years, subject to all the provisions of this Article.

5-516 REVOCATION OF LICENSE; PROCEDURE. Any Operator may have its license revoked or suspended for violation of the provisions of this Article. A suspension or revocation must be a joint action of the governing bodies of the City and the County. Before any license is suspended or revoked, the Operator shall be given written notice, to the address stated in the application for a license, of the public hearing to be conducted on the proposed license revocation or suspension. Such written notice shall be mailed, postage pre-paid, at least ten (10) days prior to the public hearing and shall contain the

- proposed grounds for the revocation or suspension. The Operator may appear and present such relevant evidence as appropriate at the public hearing. The City and the County shall issue a written order on the proposed suspension or revocation within thirty (30) days of the public hearing. The Operator shall have the authority to continue to operate pursuant to the license pending the determination of the proposed revocation or suspension, unless the Medical Director determines that the continued operation would endanger public health and safety, in which case the Operator shall cease and desist from operation pending the determination of the City and County governing bodies on the proposed suspension or revocation.
- 5-517 VEHICLE SPECIFICATIONS. Each ambulance of the Operator shall meet the ambulance specifications promulgated by the EMS Board. No Operator shall acquire an ambulance for use in the County unless the ambulance complies with the required ambulance specifications for conforming ambulances.
- 5-518 VEHICLE EQUIPMENT. Every ambulance of the Operator shall be equipped at all times with that medical equipment required by the current EMS Board regulations to be carried in the ambulance except as may be specifically waived by the EMS Board. The Medical Director shall be notified of the application for any waiver presented, in advance of any presentment. The Medical Director shall recognize such waivers.
- 5-519 NUMBER OF OPERATION VEHICLES REQUIRED. No ambulance service shall provide Emergency Transport services within the City or County with less than seven (7) fully staffed and operational ambulances, all of which shall contain all required equipment and meet all of the requirements of this Article and the regulations promulgated by the EMS Board.

[Res. No. 25-04, Sec. 1]

CHAPTER 6. FIRE SAFETY

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ARTICLE 1. OUTDOOR BURNING

6-101 DEFINITIONS. As used in this Article:

- a) Open Burning means the burning of unwanted materials such as paper, trees, brush, leaves, grass, and other debris, where smoke and other emissions are released directly into the air without passing through a chimney or a stack. Open burning also includes incineration devices that do not control the combustion of air to maintain an adequate temperature and do not provide sufficient time for complete combustion.

[HR-23-11-3, Sec. 1]

6-102 OPEN BURNING ONLY ALLOWED IN LIMITED SITUATIONS. No person shall conduct, cause, or permit any open burning in the unincorporated areas of Douglas County except as allowed by the regulations, conditions, and limitations set forth in this Article. Allowed open burning is limited to the following:

- a) Agricultural open burning. The open burning of vegetation such as grass, woody species, crop residue, and other dry plant growth for the purpose of crop, range, pasture, wildlife, or watershed management (this includes the burning of routine brush piles accumulated from the property); provided, however, the open burning of brush, limbs, and other materials brought from offsite shall not be allowed under this Section.
- b) Residential open burning. Open burning on a residential parcel of nonhazardous household waste generated at the parcel (unless otherwise prohibited) including trees, brush, and yard waste. Prohibited materials for residential open burning include those materials set forth in K.A.R. 28-19-647(e)(2).
- c) Residential open burning.
 - 1) Open burning for cooking, warming or ceremonial purposes on public or private land regularly used for recreational purposes; provided, however, any fire exceeding five (5) feet in diameter at its base requires notification as described in Section 6-103.

- 2) Burning within a self-contained outdoor burning device designed for cooking or heating (barbecue grill or pit, camp stove, fire pit, etc.).
- d) Specifically approved open burning conducted in accordance with a burn permit granted pursuant to Section 6-108.
- e) KDHE approved open burning: Open burning in accordance with an application for approval granted by the Kansas Department of Health and Environment (KDHE) pursuant to K.A.R. 28-19-647 and approved by the fire control authority having jurisdiction over the area. Approval may be granted when there is no other practical means of disposal, it is in the public's interest, and it is not prohibited by the local government or local fire authority. These activities include the following:
 - 1) Use of safety flares to dispose of flammable liquids and gasses;
 - 2) Firefighter training (contact KDHE for additional specific requirements);
 - 3) Fires to remove dangerous or hazardous materials;
 - 4) Open burning of trees and brush not related to agricultural purposes, such as clearing land for development;
 - 5) Open burning of only clean wood waste from construction projects carried out at the construction site (does not include engineered wood product wastes such as plywood and pressed-wood products, pressure-treated wood lumber, and painted or stained wood wastes).

[HR-23-11-3, Sec. 1]

6-103 OPEN BURNING REGULATIONS. Persons conducting open burning, as allowed in Section 6-102 (b), (d), and (e), shall comply with the following requirements and regulations:

- a) Prior to starting any burn, persons conducting any open burning shall make appropriate notification of such intention to burn as described in County Policy to include the following information:
 - 1) Location of the intended burn and the name, address, and telephone number of the person responsible for the open burning;
 - 2) Duration and schedule of the burning;
 - 3) Description of the proposed open burning to include, but not be limited to, size/acreage of the burn, material to be burned and reason for the burn; and
 - 4) Agreement to comply with the stated conditions for open burning within this Section.

- b) All open burning shall be conducted in accordance with the KDHE rules and regulations for Open Burning, K.A.R. 28-19-645 et seq.
- c) Nothing in this Article shall relieve any property owner or other responsible parties from the obligations of obtaining proper approvals from KDHE.
- d) A person shall not conduct an open burn that creates a traffic safety hazard. If conditions exist that may result in smoke blowing toward a public roadway, the person conducting the burn shall give adequate notification to the Highway Patrol, Sheriff's Office, or other appropriate state or local traffic control authorities before burning.
- e) A person shall not conduct an open burn that creates an airport safety hazard. If smoke may affect visibility at an airport, the person conducting the burn shall give adequate notification to the appropriate airport authorities before burning.
- f) The person conducting the burn shall ensure that the burning is supervised by a person over the age of 18 until the fire is extinguished.
- g) The person conducting the burning shall stockpile the material to be burned, dry it to the extent possible before it is burned, and assure that it is free of matter that will inhibit good combustion.
- h) A person shall not burn heavy smoke-producing materials including rubber tires, plastics, roofing, tar paper, old furniture, cloth or any petroleum base product nor trash that contains foam, chemically treated wood, electronics, chemicals, or hazardous materials.
- i) A person shall not initiate burning during the nighttime, which for the purposes of this resolution is defined as the period from two (2) hours before sunset until one (1) hour after sunrise (except agriculture and other specifically approved open burning). A person shall not add material to a fire after two (2) hours before sunset.
- j) A person shall not burn within 1,000 feet of any occupied dwelling unless the occupant of that dwelling has been notified before the burn.

[HR-23-11-3, Sec. 1]

6-104 AGRICULTURAL OPEN BURNING REGULATIONS. Persons conducting agricultural open burning, as allowed in Section 6-102 (a), must be in compliance with K.A.R. 28-19-648 (Agricultural Open Burning) and shall comply with the following requirements and regulations:

- a) Prior to starting any burn, persons conducting any open burning shall make appropriate notification of such intention to burn as described in County Policy to include the following information:
 - 1) Location of the intended burn and the name, address, and telephone number of the person responsible for the open burning;
 - 2) Duration and schedule of the burning;
 - 3) Description of the proposed open burning to include, but not be limited to, size/acreage of the burn, material to be burned and reason for the burn; and
 - 4) Agreement to comply with the stated conditions for open burning within this Section.
- b) A person shall not conduct a burn that creates a traffic safety hazard. If conditions exist that may result in smoke blowing toward a public roadway, the person conducting the burn shall give adequate notification to the highway patrol, Sheriff's Office or other appropriate state or local traffic control authorities before burning;
- c) A person shall not conduct a burn that creates an airport safety hazard. If smoke may affect visibility at an airport, the person conducting the burn shall give adequate notification to the appropriate airport authorities before burning; and
- d) The person conducting the burn shall ensure that the burning is supervised by a person over the age of 18 until the fire is extinguished.

[HR-23-11-3, Sec. 1]

6-105 PROHIBITIONS ON OPEN BURNING.

- a) Open burning is prohibited during a Red Flag Warning.
- b) Open burning may be prohibited when a local determination is made by the County Administrator or his/her designee that a threat to the area exists or due to any other variables that could affect fire burning. These variables include, but are not limited to:
 - 1) Local jurisdictional authority;
 - 2) Resource limitations; and
 - 3) Local conditions of dryness.
- c) Open burning is prohibited on those days when a local or state governmental entity has imposed a county-wide or state-wide burning ban that includes the proposed burn location as set forth in Section 6-106 or other applicable law.

- d) The Officer in Charge or his/her designee of any fire service agency shall have the authority to deny any person permission to conduct open burning within their fire protection jurisdiction based upon the current or expected weather conditions, the availability of fire suppression and support resources, or other conditions which may create an unreasonable risk to the public's safety.

[HR-23-11-3, Sec. 1]

6-106 DECLARATION OF EMERGENCY.

- a) As provided in K.S.A. 48-932, the Chair of the Board of County Commissioners (BOCC) may declare that, due to low moisture conditions, or other relevant conditions, an emergency exists and that the open burning ban provided for in Section 6-105 shall take effect and be in force for periods not in excess of seven (7) days at a time. Such restrictions shall take effect and be in force twenty-four (24) hours after the filing thereof with the Douglas County Clerk.
- b) Building, maintaining, attending or using any open fire or campfire, except in permanent stoves or fireplaces or in barbecue grills in developed recreational sites or on residential home sites.

[HR-23-11-3, Sec. 1]

6-107 OPEN BURNING PROHIBITIONS DURING A BURN BAN. During a burn ban imposed in accordance with Section 6-105 or an emergency declared in accordance with Section 6-106, the open burning ban includes, but is not limited to, any open burning except:

- a) Recreational open burning as described in Section 6-102 (c);
- b) Open burning conducted in accordance with a burn permit granted pursuant to Section 6-108.

[HR-23-11-3, Sec. 1]

6-108 BURN PERMITS.

- a) A permit allowing any governmental authority or an owner or operator of any business to burn despite a burning ban under Section 6-105 or a burning ban under Section 6-106 may be granted by the BOCC upon the filing of an application therefore by the governmental authority or owner or operator of any business in Douglas County if the BOCC finds the following conditions are satisfied:
 - 1) The burning of trash, debris, or waste by the governmental authority or business is necessary and in the public interest;

- 2) Such burning will be carried out at a location, at such a time, and in a manner that does not pose an unreasonable risk to neighboring property and the public health, safety and welfare;
 - 3) The business or governmental authority presents evidence of insurance determined by the BOCC to be adequate to insure against loss of life, other personal injury, or damage to any property occurring on or off the business premises that results either directly or indirectly from such burning operation;
 - 4) The business or governmental authority is in compliance with all other laws, rules or regulations of Douglas County at the time the permit is granted; and
 - 5) The proposed burn complies with all other applicable laws, rules or regulations, including but not limited to permits and other requirements of Kansas agencies.
- b) Any permit granted by the BOCC in accordance with this Section shall be subject to revocation at any time by a majority vote of the BOCC if the BOCC determines that the owner or operator is not conducting the burn in accordance with the conditions of the permit or if one or more of the findings made in accordance with subsection (a) of this Section are no longer applicable.
 - c) The BOCC may impose such conditions upon the approval of a permit as it deems appropriate under the circumstances.
 - d) Any burn pursuant to a permit must be conducted in compliance with all conditions that the BOCC may place upon the burn.
 - e) The person conducting the burn pursuant to a permit must be in possession of the permit issued under the authority of the BOCC pursuant to this Section and shall present the permit to any law enforcement officer, representative of the jurisdictional fire department, or any Douglas County employee upon request.

[HR-23-11-3, Sec. 1]

6-109 PRESUMPTION. In assessing a criminal penalty or civil fine for any violation or failure to comply with any provision of this Article, it shall be considered prima facie evidence that the person owning, occupying, or controlling any property upon which open burning is conducted voluntarily caused or permitted such burning to occur.

[HR-23-11-3, Sec. 1]

6-110 INTERPRETATION AND SEVERABILITY. This Article is supplementary to other provisions or remedies authorized or prescribed by any other applicable law or rule or regulation enacted thereunder. The invalidity of any particular provisions of this Article shall not affect the validity of any other provision. This Article shall be liberally construed to the fullest extent permitted by law to effectuate the broad remedial purposes for which it is intended. [HR-23-11-3, Sec. 1]

6-111 ENFORCEMENT AND PENALTIES.

- a) General Violation. Except as provided in subsection (b) of this Section, a person who violates or fails to comply with any provisions of this Article or engages in conduct in violation of this Article shall be guilty of a Class C misdemeanor.
- b) Violation of a Burn Ban. A person who knowingly violates or fails to comply with a county or state-wide burn ban shall be guilty of a Class A misdemeanor.
- c) Initiation of Criminal Proceedings. In addition to any other method of initiating a criminal proceeding under applicable law, any law enforcement officer or fire official of a governmental entity may initiate a criminal proceeding under this Article by forwarding the appropriate documentation to the district attorney for prosecution.

[HR-23-11-3, Sec. 1]

ARTICLE 2. USE AND SALES OF FIREWORKS

6-201 DEFINITIONS. As used in this Article, unless the context clearly indicates otherwise, the following words and terms have the following meanings:

- a) Fireworks mean any combustible or deflagrating composition, article, or device suitable for the use of the public for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation and previously approved for transportation by the chemical laboratory of the United States Department of Transportation.
- b) Fireworks Stand means any permanent or temporary building, trailer, tent, display, awning, canopy, temporary membrane structure, or location from which a Person sells or otherwise distributes Fireworks in the unincorporated areas of Douglas County, Kansas.⁷
- c) Operator means any Person who sells or otherwise distributes Fireworks or owns, manages or operates a Fireworks Stand.

Person means an individual, organizational entity of any type, partnership, church, corporation, limited liability company, trust,

association of any type, or any agent, officer, employer, committee, or group of any of the foregoing.

- d) Sky Lantern an unmanned self-contained luminary device that uses heated air produced by an open flame or produced by another source to become or remain air-borne. (HR Res. 21-9-2, Sec. 1)

6-202 USE OF FIREWORKS PROHIBITED. It shall be unlawful to ignite, explode, discharge, or use any Fireworks in the unincorporated area of the County, except as follows:

- a) Date and Time Limitations. The use of Fireworks shall be allowed only during the following dates and times:

- July 1 7:00 A.M. to 10:00 P.M.
- July 2 7:00 A.M. to 10:00 P.M.
- July 3 7:00 A.M. to Midnight.
- July 4 7:00 A.M. to Midnight.

- b) Special Permit. The use of Fireworks may be allowed at dates and times other than those contained in Section 6-202(a) pursuant and strictly in compliance with a permit issued pursuant to Section 6-304 of the Douglas County Code.

- c) Prohibited Locations. Notwithstanding the provisions of Section 6-202(a), it shall be unlawful to ignite, explode, discharge, or use any Fireworks:

- 1) within 1,000 feet of any hospital, sanitarium or infirmary; or
- 2) within 100 feet of any Fireworks Stand; or
- 3) into, under, from, or on a car or vehicle, whether moving or standing still; or
- 4) on any public roadway or the right-of-way adjoining a public roadway; or
- 5) on any public or private property without the express permission and, with respect to private property, direct supervision of the owner, occupier, or other Person having control of such property; or
- 6) on any County owned properties, with the exception of designated portions of Lone Star Lake Park and Wells Overlook Park, unless sponsored by the governing body.

- d) Prohibited Fireworks. Notwithstanding the provisions of Section 6202(a), it shall be unlawful to ignite, explode, discharge, or use Fireworks prohibited under the laws of the State of Kansas, with the exception it

shall be unlawful to ignite, explode, discharge, or use Fireworks commonly referred to as "bottle rockets" or "sky lanterns" even if otherwise permitted under the laws of the State of Kansas. (HR Res. 21-9-2, Sec. 1)

- 6-203 SALE OF FIREWORKS. It shall be unlawful to sell or otherwise distribute Fireworks at a Fireworks Stand, except as follows:
- a) Date Limitations. The sale or distribution of Fireworks shall be allowed only on the following dates within the unincorporated areas of Douglas County, Kansas: July 1, July 2, July 3, and July 4.
 - b) Prohibited Fireworks. Sale or other distribution of Fireworks shall be limited to 1.4G or Class "C" Fireworks authorized under the laws of the State of Kansas, with the exception that the sale or other distribution of Fireworks commonly referred to as "bottle rockets" or "sky lanterns" is prohibited.
 - c) Permit Required. The sale or other distribution of Fireworks at a Fireworks Stand shall not be done without obtaining and holding a valid Fireworks Stand permit, issued by Douglas County Department of Zoning & Codes in accordance with this Article.
 - d) Supervision. A person 18 years of age or older shall be present to supervise the operation of the stand at all times.
 - e) Appropriate Zoning. Fireworks Stands may only be located on, and permits may only be issued for, property as allowed by the Douglas County Zoning Regulations as they exist on the date the permit is granted. Fireworks Stands are allowed only in AG-1, AG-2, GB, LI, GI, and BSC Districts. (HR Res. 21-9-2, Sec. 1)
- 6-204 PERMIT APPLICATION FOR FIREWORKS STAND. Applications for a Fireworks Stand permit shall be on forms and according to procedures prepared by the Douglas County Department of Zoning & Codes and shall be accompanied by an application fee as determined by the Zoning and Codes fee schedule. A pre-application is required for Zoning and Codes to issue a situs address on vacant parcels and to review these regulations with the applicant. Applications will not be made available or accepted before April 1st of each year and must be received by the Douglas County Department of Zoning & Codes on or before the close of business on June 7th of that same year. If June 7th is a day on which the office of the Department of Zoning & Codes is closed, the application must be received on or before the close of business on the next succeeding business day after June 7th. Submitted applications shall, at a minimum, contain the following information:

- a) The name, address, legal description, and phone number of the owner of the real estate upon which the Fireworks Stand is to be operated;
- b) The name, address, and phone number of the Operator of the Fireworks Stand;
- c) A copy of the Distributors State of Kansas Fireworks Distribution Permit:
 - 1) Each operator of a temporary retail stand shall maintain a list of what consumer firework items are on the premises, indicating the Kansas licensed distributor from whom those items were purchased. This list shall be provided to law enforcement, the fire department, or the local authority, upon request.
- d) Proof of liability insurance (a minimum of \$1,000,000 required);
- e) A detailed site plan of the property on which the Fireworks Stand is to be located, showing the location of the Fireworks Stand; the location of all buildings, highways and any lines of communication; and the location of the off-street parking area designated for the Fireworks Stand;
- f) If a sign will be used to advertise the Fireworks Stand, the detailed site plan must show the location and size of the sign; and
- g) The application shall contain a copy of the Operator's current Kansas Retailers' Sales Tax Registration Certificate.

No permit shall be issued if the Fireworks Stand does not or will not comply with the provisions of this Article. In addition, the Department of Zoning & Codes is authorized to deny a permit to an Operator who has previously failed to comply with Douglas County regulations governing the sale of Fireworks and the operation of a Fireworks Stand. (HR Res. 21-9-2, Sec. 1)

6-205 FIREWORKS STAND REQUIREMENTS. All Fireworks Stands shall be subject to and operate in compliance with the following minimum requirements:

- a) Compliance with the Law. The tract of real estate on which the Fireworks Stand is located, and any and all buildings thereon (whether or not the buildings are actually used in connection with the Fireworks Stand), shall not be found to be in active violation of any of the County's zoning, site-planning, building, plumbing, mechanical or electrical codes on or before the application for the permit is submitted. No permit shall be issued for a Fireworks Stand to be located on any real estate if any such violations have been determined on or before the application for the permit is submitted. In addition, any temporary or permanent structure used in connection with the Fireworks Stand shall comply with all applicable

building codes relevant to the sale and storage of Fireworks, whether or not found to be in violation on or before the application for the permit is submitted. In addition, each Operator shall comply with all applicable local, state and federal laws and regulations, regardless of whether those legal requirements are specifically referenced herein. Without limiting the foregoing, all electrical systems and equipment, including temporary electrical connections, used in conjunction with the Fireworks Stand shall be installed and used in compliance with the National Electric Code or other applicable electric code, as then adopted and in force in the unincorporated areas of Douglas County, Kansas.

- b) Distance from Road. All Fireworks Stands shall be located at least 25 feet from any road rights-of-way or highway rights-of-way. Fireworks Stands must be oriented in a way that does not conflict with road line of sight.
- c) Distance from Flammable Materials. No Fireworks shall be stored or sold within 100 feet of any source of flame, sparks, or more than one gallon of any explosive, flammable, combustible, or volatile material; provided, however, that the foregoing shall not apply to operable motor vehicles located more than 25 feet away from stored Fireworks or the Fireworks Stand. Generators shall be no closer than 50 feet of any Fireworks or Fireworks Stand.
- d) Fireworks, Open Flames and Hot Objects. Fireworks, open flames and devices capable of igniting combustible materials shall not be used, discharged or exploded within 100 feet of any Fireworks Stand.
- e) No Smoking/Alcoholic Beverages. Smoking and alcoholic beverages shall not be permitted within 100 feet of any Fireworks Stand or any adjacent areas where Fireworks are stored, sold or displayed. "FIREWORKS FOR SALE—NO SMOKING" signs shall be conspicuously posted inside and outside of the storage and/or sales location. The Operator shall enforce this provision with respect to all Persons at the Fireworks Stand. Both the Operator and the Person violating this provision may be subject to prosecution pursuant to Section 6-207.
 - 1) If smoking areas are established outside the required 100 feet, smoking receptacles must be provided.
- f) Use of Awnings, Canopies, Temporary Membrane Structures and Tents. The use of awnings, canopies, temporary membrane structures or tents shall, in addition to all other requirements, comply with the following requirements:

- 1) Location. No temporary membrane structure, canopy or tent shall be located within twenty 20 feet of property lines, buildings, other temporary membrane structures, tents, awnings, and/or canopies.
 - 2) Permanent Structures. Shall meet all applicable federal, state, and local codes. Compliance with life-safety, fire prevention, structural integrity, and occupancy is required.
 - 3) Flame-retardant Treatments. The sidewalls, drops, and tops of awnings, canopies, temporary membrane structures and tents shall be composed of flame-resistant material or shall be treated with a flame-retardant material. All tents, membranes, structures, sidewalls, curtains, etc. must be flame retardant to NFPA 701 (this includes a permanently affixed label that identifies size and material type).
- g) Means of Egress.
- 1) Location of Exits. Exits shall be spaced at approximately equal intervals around the perimeter of the Fireworks Stand and shall be located such that all points are no more than 75 feet from any exit.
 - 2) Number of Exits. Every Fireworks Stand shall have at least 2 exits.
 - 3) Maintenance of Exits. The required width of exits, aisles and passageways to a public way shall not be less than 48 inches in width. Guide wires and other support members shall not cross a means of egress.
 - 4) Exit Signs. Exit signs shall be installed at required exit doorways and where otherwise necessary to clearly indicate the direction of egress. Exit signs may be no smaller than 8.5" x 11".
- h) Fire Extinguisher/Telephone. Each Fireworks Stand shall have at least 2 approved and operable fire extinguishers (2A1 OBC minimum) and telephone on site for emergencies at all times. The names and telephone numbers of the principal owner and manager of the Firework Stand shall be legibly written or printed and posted in a visible, unobstructed place viewable from the front door of the establishment. This information shall be kept current so the constituents or general public know whom to contact in case of an emergency. Extinguishers shall be placed in a clearly designated location within the tent site and accompanied by an 8.5" x 11" yellow placard.
- i) On-Site Security. Any overnight temporary lodging must be identified on the site-plan and requires waste approval from the Lawrence-Douglas County Health Department.

- j) Posting of Rules. Each Fireworks Stand shall display a 3 foot by 3 foot sign visible to the public advising of the following rules:
- 1) Fireworks shall only be discharged on private property in the unincorporated areas of Douglas County, Kansas if an adult owner, occupier, or person having control of the property consents to and provides direct supervision of the discharge of fireworks.
 - 2) Fireworks shall not be discharged on any public street or roadway.
 - 3) Fireworks may be discharged in the unincorporated areas of Douglas County, Kansas only during the following dates and times:

July 1	7:00 A.M. to 10:00 P.M.
July 2	7:00 A.M. to 10:00 P.M.
July 3	7:00 A.M. to Midnight.
July 4	7:00 A.M. to Midnight
 - 4) No smoking or alcoholic beverages are allowed at the Fireworks Stand.
 - 5) Violations are punishable by fines and/or confiscation of Fireworks.
- k) Parking. Off street parking must be provided for all employees and customers, which shall be a minimum of 25 feet away from the Fireworks Stand and any Fireworks storage areas. Temporary parking does not need to be on an approved surface, but must be outside of the public right-of-way. Parking areas on grass must be mowed and maintained for the duration of the permit.
- l) Site Preparation. Weeds and grass must be mowed within 100 feet of the Fireworks Stand. Brush, hay, logs, and other flammable materials must be at least 100 feet from the Fireworks Stand. Grass and weeds must be mowed within a 30-foot diameter of any pedestrian path. The site must be mowed and maintained for the duration of the permit.
- m) Temporary Stand Removal. The temporary stand and signs shall be removed on or before July 8th. An extension by the Zoning and Codes office may be permitted with a written request by the applicant. The extension request may be denied if the request is not made in good faith or lacks merit.
- n) Damage Deposit/Bond. Any Fireworks Stand which gains its principle means of ingress/egress by crossing either a public hike or bike path shall post a \$1,000 refundable bond or pay a \$1,000 deposit to ensure that the path is not damaged by the operation. The bond shall be made payable to Douglas County.
- o) Advertising Sign. Only two advertising signs can be erected to advertise each Fireworks Stand, which may be illuminated but shall not be flashing

or animated. Neither sign may be larger than 32 sq. ft. Signs must be located in the front of the Fireworks Stand but not on the road or highway rights-of-way, and shall not represent a safety hazard. Sign size and locations, with dimensions, must be shown on the site plan. No off-site signs are permitted.

- p) Sales Tax Registration Certificate. The Operator shall conspicuously display its current Kansas Retailers' Sales Tax Registration Certificate at the Fireworks Stand.
- q) Only Fireworks May be Sold. Unless applicable zoning regulations and approved site-plans allow the sale of other items at retail, only Fireworks-related items may be sold at Fireworks Stands and sale of other items is strictly prohibited.
- r) Fireworks Stand Permit. The Operator shall conspicuously display its Fireworks Stand permit at the Fireworks Stand.
- s) Original Packaging. All Fireworks shall remain in original packaging, unless otherwise permitted pursuant to regulations of the Kansas Fire Marshall.
- t) Public Notice. The Operator shall send public notice to all property owners in a 1,000-foot radius of the property used for fireworks distribution prior to submitting their application to Zoning and Codes.
 - 1) If the foregoing area includes area within the corporate limits of a city, the list shall include owners of property extending 400 feet into the corporate limits of the city.
 - 2) The list shall be a certified list obtained from the Douglas County Clerk's Office (785-832-5160) and must have been obtained within 30 days of the date the registration is submitted.
 - 3) The applicant shall mail a letter which contains, at a minimum, the information below to the property owners on the list to advise them of the proposed Firework Stand and provide them the opportunity to contact the applicant or the Zoning and Codes Department if they have any questions or concerns.

Notification Language without Firework Display

"Dear Homeowner,

This letter serves to inform you that a Firework Stand located at (a temporary situs address assigned by Zoning and Codes is required) is being permitted with Douglas County Zoning and Codes. The Firework Stand will consist of (brief description of the event and dates). Please contact me at (phone number, email) with

any questions regarding this permitted stand or the Douglas County Zoning and Codes Department at zoning@douglascountyks.org”

Notification Language with Firework Display

“Dear Homeowner,

This letter serves to inform you that a Firework Stand located at (a temporary situs address assigned by Zoning and Codes is required) is being permitted with Douglas County Zoning and Codes. The Firework Stand will consist of (brief description of the event and dates, Description of discharge time and duration). Please contact me at (phone number, email) with any questions regarding this permitted stand or the Douglas County Zoning and Codes Department at zoning@douglascountyks.org”

- 4) A copy of the letter, the property owner list, and certification of the date the letters were mailed to the address on the list shall be submitted as part of the application. (HR Res. 21-9-2, Sec. 1)

6-206 INSPECTIONS OF FIREWORKS STANDS; REVOCATION OF PERMIT. One or more inspections of the proposed site for the Fireworks Stand may be required to ensure compliance with this Article prior to or after issuing the permit. Inspections may be made by any Douglas County law enforcement officer, code enforcement officer, or personnel of any applicable fire department. By submitting any application for a Fireworks Stand permit, the applicant shall be deemed to have consented to all such inspections. If the applicant does not own the subject property, the filing of an application shall be deemed to be a representation by the applicant that the applicant has permission of the owner of the land that that the applicant is authorized to consent to such inspection. Any permit previously issued may be revoked or suspended upon notice to the Operator if the Fireworks Stand is not operating in compliance with the provisions of this Article. Upon revocation or suspension of the permit, the Operator of the Fireworks Stand shall immediately cease sale of all Fireworks until the Fireworks Stand is brought into compliance and the permit is reinstated. (HR Res. 21-9-2, Sec. 1)

6-207 VIOLATIONS, ENFORCEMENT AND PENALTIES.

- a) Criminal Penalties. Any Person who violates the provisions of this Article shall be guilty of a misdemeanor, punishable by a fine in an amount not to exceed \$500, confinement in the county jail for a period not to exceed one month, or both.
- b) Initiation of Proceedings. In addition to any other method of initiating a criminal proceeding under applicable law, criminal proceeding may be

initiated for violation of any provision of this Article by making an offense report and serving a uniform complaint and notice to appear upon the accused. The offense report may be forwarded to the district attorney for prosecution.

- c) Continuing Violation. Each day that any violation occurs shall constitute a separate offense and shall be punishable as a separate violation. Provided, however, that if any person is found guilty of a violation hereunder and it shall appear to the court that the violation complained of is continuing, then in addition to the penalty set forth, the court shall enter such order as it deems appropriate to cause the violation to be abated.
- d) Confiscation of Fireworks. In addition to the other provisions of this Section, whenever a Douglas County law enforcement officer, code enforcement officer, or personnel of any applicable fire department has probable cause to believe that a person possesses Fireworks with intent to violate the provisions of this Article or has violated the provisions of this Article, the law enforcement officer, code enforcement officer or personnel of the applicable fire department may confiscate Fireworks from such person. (HR Res. 21-9-2, Sec. 1)

6-208 BURNING BAN. In the event that the Douglas County Board of County Commissioners has declared a burning ban during the 1st, 2nd, 3rd, and 4th days of July in any year, no Fireworks shall be sold or discharged and no Fireworks Stands may be operated on such days. All permit fees for Firework Stands shall be refunded to the permit applicants. (HR Res. 21-9-2, Sec. 1)

6-209 PARTIAL INVALIDITY. If any provision of this Article or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are severable. (HR Res. 21-9-2, Sec. 1)

6-210 JURISDICTION. The provisions of this Article shall apply to the unincorporated areas of Douglas County, Kansas. (HR Res. 21-9-2, Sec. 1)

ARTICLE 3. FIREWORKS DISPLAYS

6-301 DEFINITIONS. As used in this Article, unless the context clearly indicates otherwise, the following words and terms have the following meanings:

- a) Fireworks Display means a presentation of fireworks for a public or private gathering on any day of the year; provided, however, that public or private displays of consumer fireworks (class C fireworks), as

classified by the U.S. Department of Transportation, during the dates and times permitted in Article 2 shall not be deemed a "Fireworks Display" and shall not be regulated by this Article.

- b) Operator means the Person possessing a valid Fireworks Operators license issued by the Kansas Fire Marshal Department and identified as having primary responsibility for the conduct of the Fireworks Display. Operate means an Operator's conducting of a Fireworks Display.
- c) Person means an individual, organizational entity of any type, partnership, church, corporation, limited liability company, trust, association of any type, or any agent, officer, employer, committee, or group of any of the foregoing.
- d) Sponsor means the Person sponsoring the Fireworks Display. (HR 04-7-2, Sec. 1)

6-302 UNLAWFUL ACTS CONCERNING PUBLIC FIREWORKS DISPLAYS. It shall be unlawful for any Person to Sponsor a Fireworks Display or participate in igniting the fireworks in a Fireworks Display unless the Board of County Commissioners has previously issued a permit for the Fireworks Display pursuant to Section 6-304. If a permit has been issued, it shall be unlawful for any Person to Sponsor a Fireworks Display or participate in igniting the fireworks in the Fireworks Display unless done in strict compliance with such permit. (HR 04-7-2, Sec. 1)

6-303 REQUIREMENTS FOR FIREWORKS DISPLAYS. To insure that qualified individuals are present to operate the Fireworks Display and to provide adequate safety to the spectators and fire protection for surrounding property, each Fireworks Display shall comply with the following requirements:

- a) The Operator and assistants shall provide positive picture identification upon request and the Operator shall provide proof of having received a Fireworks Operators license issued by the Kansas Fire Marshal.
- b) The Operator or the Sponsor shall obtain a permit from the Chief or the Chief's designee of the fire department having jurisdiction prior to performing the Fireworks Display, as required by National Fire Protection Association Pamphlet No. 1123, Code for Fireworks Display, incorporated by reference in K.A.R. 22-1-3.
- c) The Operator or Sponsor shall demonstrate financial responsibility by providing proof of insurance or by other appropriate means.
- d) The Operator or the Sponsor shall consult with the Chief or the Chief's designee of the fire department having jurisdiction to determine the level

of fire protection required and shall provide adequate fire protection for the display.

- e) Public access to the discharge site shall not be allowed.
- f) The Operator shall have the primary responsibility for safety. The Operator shall ensure that all assistants are fully trained in the proper performance of their assigned tasks and that they are knowledgeable of safety hazards. While the Operator is allowed to actively participate in the firing of fireworks, safety shall be the primary concern.
- g) If high winds, dry vegetation, lack of precipitation, or other adverse weather conditions prevail, such that in the opinion of the Chief or the Chief's designee of the fire department having jurisdiction or the Operator, a significant safety danger exists, the Fireworks Display shall be postponed until weather conditions improve to an acceptable level.
- h) Operator and assistants shall only use flashlights or electrical lighting for artificial illumination.
- i) No smoking shall be allowed within 50 feet of any area where fireworks or other pyrotechnic materials are present.
- j) No individual shall be allowed in the discharge area while under the influence of alcohol, narcotics, or other drugs that could adversely affect judgment, movement, or stability.
- k) The fallout area shall be a large open area. Spectators, vehicles, or readily combustible materials shall not be located within the fallout area during the display. The area selected for the discharge site, spectator-viewing area, parking area, and the fallout area shall be inspected and approved by the Chief or the Chief's designee of the fire department having jurisdiction.
- l) All Fireworks Displays shall comply with then current regulations and guidelines of the Kansas Fire Marshal, including K.A.R. 22-1-3, which incorporates by reference National Fire Protection Association Pamphlet No. 1123, Code for Fireworks Display. (HR 04-7-2, Sec. 1)
- m) The Operator or the Sponsor shall obtain a permit from the Douglas County Department of Zoning & Codes and comply with any additional requirements imposed in connection with issuance of the permit. Any Person aggrieved by the decision of the Douglas County Department of Zoning & Codes with respect to the denial of any such permit or additional requirements placed upon granting the permit or operation of the Fireworks Display may appeal to the Board of County Commissioners. (HR 07-6-5, Sec. 1)

6-304 PERMIT FROM DEPARTMENT OF ZONING & CODES. Notwithstanding the provisions of Section 6-202 of the Douglas County Code (currently prohibiting all fireworks on all days other than July 2, 3, and 4 of each year) as amended, the Douglas County Department of Zoning and Codes may issue permits for a Fireworks Display on any day of the year. Any Person who obtains a permit from the Douglas County Department of Zoning & Codes in accordance with this Section may lawfully Sponsor, Operate, conduct, and assist in the operation of a Fireworks Display in accordance the requirements of Section 6-303 and the provisions of such permit. (HR 07-6-5, Sec. 2)

6-305 PERMIT APPLICATION. Applications for a Fireworks Display permit shall be on forms and according to procedures prepared by the Douglas County Department of Zoning & Codes and shall be submitted with a filing fee in an amount set by the Board of County Commissioners from time to time. Applications shall, at a minimum, provide the following information:

- 1) The name, address, and phone number of the Sponsor of the Fireworks Display;
- 2) The name, address, and phone number of the Operator of the Fireworks Display;
- 3) The name, address, and phone number of the supplier of the fireworks to the Operator, if different from the Operator;
- 4) Evidence of financial responsibility by the Sponsor or Operator of the Fireworks Display in the form of an insurance certificate or other appropriate documentation;
- 5) The date and time of day at which the Fireworks Display is to be held and, if desired, an alternative date and time in the event the Fireworks Display is postponed;
- 6) The exact location planned for the Fireworks Display;
- 7) Evidence that the Kansas Fire Marshal has issued a Fireworks Operator's license to the Operator;
- 8) The approximate number and kinds of fireworks to be discharged;
- 9) A diagram of the grounds on which the Fireworks Display is to be held showing the point at which the fireworks are to be discharged, the location of all buildings, highways and any lines of communication, the lines behind which the audience is to be restrained, and the location of other possible overhead obstructions;

- 10) Evidence that the permit from the Chief or the Chief's designee of the fire department having jurisdiction has issued a permit for the proposed Fireworks Display or an acknowledgement that it is illegal to conduct the proposed Fireworks Display without first obtaining such a permit.

If the Fireworks Display only includes consumer fireworks (class C fireworks), as classified by the U.S. Department of Transportation, the Fireworks Display need not have an Operator and the Board of County Commissioners may waive other requirements that it determines unnecessary to adequately protect health, welfare, and property. Unless the Fireworks Display permit states otherwise, the permit shall be deemed to incorporate a requirement that the Fireworks Display be conducted strictly in accordance with the permit application. (HR 04-7-2, Sec. 1)

- 6-306 AUTHORITY HAVING JURISDICTION. For purposes of National Fire Protection Association Pamphlet No. 1123, *Code for Fireworks Display*, which the Kansas Fire Marshal has incorporated by reference at K.A.R. 22-1-3, the "authority having jurisdiction" shall be the Fire Chief or the Fire Chief's designee of the fire department having jurisdiction of the area within which the Fireworks Display is held. (HR 04-7-2, Sec. 1)
- 6-307 CRIMINAL PENALTIES. Any Person who violates the provisions of Section 6-302 or engages in conduct in violation of the requirements of Section 6-303 shall be guilty of a misdemeanor, punishable by a fine in an amount not to exceed \$500, confinement in the county jail for not to exceed one month, or both. (HR 04-7-2, Sec. 1)
- 6-308 PARTIAL INVALIDITY. If any provision of this Article or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are severable. (HR 04-7-2, Sec. 1)
- 6-309 JURISDICTION. The provisions of this Article shall apply to the unincorporated areas within Douglas County, Kansas and, in addition, shall apply within the city boundaries of any incorporated city located within Douglas County, Kansas that adopts an ordinance or resolution or takes other formal action consenting to have this Article apply within such city's boundaries. (HR 04-7-2, Sec. 1)

6-310 ADVERSE WEATHER CONDITIONS. If high winds, dry vegetation, lack of precipitation, or other adverse weather conditions prevail, such that in the opinion on of the Chief or the Chief's designee of the fire department having jurisdiction or the Operator, a significant safety danger exists, the Fireworks Display shall be postponed until weather conditions improve to an acceptable level. In addition, notwithstanding the issuance of a Fireworks Display permit in accordance with this Article, the Board of County Commissioners may order the postponement of the Fireworks Display for the same reasons. (HR 04-7-2, Sec. 1)

CHAPTER 7. NUISANCES

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ARTICLE 1. PROHIBITING THE MAINTENANCE, COMMISSION AND CAUSING OF NUISANCES WITHIN THE COUNTY

- 7-101 NUISANCES DEFINED AND PROHIBITED. It shall be unlawful for any person to permit, cause, keep or maintain any nuisance, or cause to be committed, caused, kept or maintained any nuisance within Douglas County. Anything which is dangerous to or violates the health, peace, or welfare of any citizen of Douglas County, Kansas, is hereby deemed and declared to be a nuisance. (HR 93-6-5, Sec. 1)
- 7-102 EXEMPTIONS. The following activities shall not be deemed a nuisance as defined herein:
- a) Any activity normally associated with the operation of an agricultural, farming or ranching business; and
 - b) The normal operation of any industrial business which is being carried on in an area zoned for such use or for which a conditional use permit has been issued by the Board. (HR 93-6-5, Sec. 2)
- 7-103 ABATEMENT; NOTICE. Whenever the Board determines that any nuisance, as herein defined, exists on any premises within the County, it shall be the duty of the Board (or its designated representative) to notify in writing the owner or occupant thereof of the existence of such a nuisance, specifying the measures necessary to abate such nuisance and requiring its abatement. The notice to abate such nuisance must be served on the occupant of the premises personally, or if there is no such occupant, then the notice must be sent to the owner or agent of the owner of such premises by United States mail, postage prepaid, to the address of such owner or agent. (HR 93-6-5, Sec. 3)
- 7-104 ABATEMENT; DUTY OF OWNER; FAILURE TO COMPLY. Upon receipt of the notice specified by 7-103, above, it shall be the duty of the owner or occupant receiving notice to abate the nuisance within the time specified in the notice and it shall be unlawful for any such occupant or owner to fail to

take remedial action. In the event such occupant, owner or agent shall fail, neglect or refuse to comply with the terms of the notice, or in case the Board or its designated representative after having used due diligence, is unable to locate any occupant, owner or agent, the Board shall have the authority to take remedial action. (HR 93-6-5, Sec. 4)

7-105 ENFORCEMENT.

- a) Injunction. The Board may bring an action in the District Court of Douglas County to enjoin the nuisance and upon a finding that a nuisance exists the Court shall make an order enjoining the nuisance and granting such further relief as is necessary to protect the interest of the citizens of Douglas County, Kansas.
- b) Temporary Abatement. In the event that the Sheriff of Douglas County, Kansas, determines that an emergency exists wherein a nuisance, as defined herein, presents an immediate risk to the health, peace, or welfare of any citizen of Douglas County, Kansas, and irreparable harm may occur if the nuisance is not immediately abated, he may enter upon the premises and temporarily abate the nuisance in such manner as he believes will best protect the citizens of the County. Before any permanent abatement takes place the notice procedures set forth herein shall be followed. (HR 93-6-5, Sec. 5)

ARTICLE 2. NOISE CONTROL

7-201 NOISE DISTURBANCE PROHIBITED. No person or group of persons, regardless of number, shall make, continue, or cause to be made, or assist in making or continuing to make, any Noise Disturbance in the unincorporated areas of Douglas County. Any person creating any such Noise Disturbance and/or permitting such Noise Disturbance to be created in, or emanate from, any property under his or her care, custody or control shall be presumed responsible for any such noise. (HR 11-7-3, Sec 1)

7-202 NOISE DISTURBANCE DEFINED. For the purposes of this Article, a "Noise Disturbance" shall mean any sound, including but not limited sounds emitted from any mechanical or electronic device under the control of a person, which, because of its volume level, duration or character, (i) annoys, disturbs, injures, or endangers the comfort, health, peace or safety of reasonable persons of ordinary sensibilities, and (ii) interferes seriously with neighboring residents' reasonable use and enjoyment of their properties. (HR 10-6-3, Sec 1)

7-203 EXEMPTIONS. The prohibitions of Section 7-201 shall not apply to any of the following:

- a) Any activity normally associated with the operation of an agricultural, farming or ranching business; and
- b) The normal operations of any industrial business being carried on in an area zoned for such use or for which a conditional use permit has been issued by the Board of County Commissioners; (HR 10-6-3, Sec 1)and
- c) Governmental operations, safety signals, warning devices, emergency signaling devices, or operation of emergency vehicles; and
- d) Emergency work necessary to restore property to a safe condition, including but not limited to work necessary to repair or restore services provided by public service or utility companies such as water, gas, telephone, and electricity, or to protect a person and property from eminent danger; and
- e) Railroads or lawfully operated aircraft; and
- f) The lawful discharge of firearms between the hours of 7:00 a.m. and 10:00 p.m. or in connection with lawful hunting activities (HR 11-7-3, Sec 2); and
- g) Otherwise lawful discharge of fireworks; and
- h) Engine noise from normal and otherwise lawful operation of motor vehicles on public roads, or on private roads and private drives while traveling directly to and from a public road (the operation or permitting the use or operation of any motor vehicle, including but not limited to a motorcycle, sports utility vehicle, three wheeler, four wheeler, or other all-terrain vehicle on private property for entertainment purposes is not exempt); and
- i) Activities of a temporary duration, including but not limited to musical or theatrical productions, sporting events, fireworks displays and temporary business uses, that are specifically approved by a permit or authorization approved by the Board of County Commissioners or by an authorized officer or employee of Douglas County; provided, however, that a Noise Disturbance from construction, excavation or demolition activities shall not be exempt under this Section simply by the issuance of a building, excavation or demolition permit. (HR 10-6-3, Sec 1)

7-204 INTERPRETATION AND SEVERABILITY: This Article is supplementary to other provisions or remedies authorized or prescribed by any other applicable law or rule or regulation enacted thereunder. The invalidity of any particular provision of this Article shall not affect the validity of any other provision. This

Article shall be liberally construed to the fullest extent permitted by law to effectuate the broad remedial purposes for which it is intended. (HR 10-6-3, Sec 1)

7-205 ENFORCEMENT AND PENALTIES: The violation of Section 7-201 shall cause such person to be subject to one or more of the following enforcement provisions:

- a) Criminal Proceedings. Any person who violates any provision of this Article shall be guilty of a misdemeanor, punishable as follows:
 - 1) First offense in a twelve-month period, a fine of \$100.
 - 2) Second offense in a twelve-month period, a fine of not less than \$100 or more than \$250, or up to 30 days confinement in the county jail, or both.
 - 3) Third and subsequent offense in a twelve-month period, a fine of not less than \$250 or more than \$500, or up to 90 days confinement in the county jail, or both.
- b) Commencement of Prosecution. The prosecution for the violation of this Article shall be commenced by the filing of a complaint with the district court or the service of the complaint and a notice to appear upon the accused person.
- c) Continuing Violation. Each day that any violation occurs shall constitute and shall be punishable as a separate offense. If any person is found guilty of a violation hereunder and it shall appear to the court that the violation complained of is recurring or continuing, then in addition to the penalty set forth, the court shall enter such order as it deems appropriate to enjoin or otherwise cause the violation to be abated.
- d) Other remedies. No provision of this Article shall be construed to impair any common law or statutory cause of action or other legal remedy of any person for injury or damage arising from the commission of any act that would constitute a violation of this Article. (HR 10-6-3, Sec 1)

CHAPTER 8. PARKS, FAIRGROUNDS AND OTHER COUNTY FACILITIES

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ARTICLE 1. DOUGLAS COUNTY 4-H FAIRGROUNDS

8-101 POLICIES, PROCEDURES, AND ADMINISTRATION.

- a) Policies and Procedures. The Board of County Commissioners shall establish and maintain Douglas County Fairgrounds Policies and Procedures, including without limitation provisions governing Fairgrounds reservations. The Board may revise such Fairgrounds Policies and Procedures as it deems appropriate. Such Fairgrounds Policies and Procedures, as amended from time to time, are incorporated herein by reference as if fully set forth in this Article 1 of Chapter 8 of the Official County Code of Douglas County, Kansas.
- b) Administration. The Director of Buildings and Grounds, or the Director's designee, shall be responsible for: (1) all buildings and grounds comprising the Douglas County Fairgrounds; and (2) enforcing the Douglas County Fairgrounds Policies and Procedures.

[Res. No. 24-35, Sec 1]

- 8-102 ALCOHOL. Pursuant to K.S.A. 41-719(f), the Board exempts the Douglas County Fairgrounds from K.S.A. 41-719(d). Alcoholic liquor, wine, beer, or cereal malt beverages may be served, consumed, possessed, or carried on the Fairgrounds premises, but only in accordance with the Douglas County Fairgrounds Policies and Procedures, as referenced in Section 8-101, above.

[Res. No. 24-35, Sec 1]

ARTICLE 2. LONE STAR PARK AND LAKE

- 8-201 The Rules and Regulations governing Lone Star Lake Park (hereinafter the "Park") are as follows:

- 8-201.1 GENERAL RULES AND REGULATIONS. The following use rules and regulations for the Park are hereby adopted:

- (a) Except as provided herein, the Park is open to the public. Visitors are welcome to use it for the various activities permitted during the times permitted. Fees are charged for certain activities as described herein.
- (b) All Park rules and regulations shall be enforced 24 hours a day by the Douglas County Sheriff. The Camp Host and County employees shall report observed violations to the Douglas County Sheriff.
- (c) The Park shall be open only during the hours of 6:00 a.m. to 10:00 p.m. with the exception of those in the Park area for the express and demonstrated purpose of fishing or camping. Quiet hours shall be observed from 10:00 p.m. until 6:00 a.m. in all areas of the Park.
- (d) The destruction of any sign, guidepost, or property of any kind is unlawful. This includes the peeling of bark, carving and chopping trees, cutting branches, driving nails, digging ground from roots, and the removal of trees, shrubs and plants, picking wild flowers, and other destruction of public property.
- (e) The discharge or use of any firearm, air gun, spring gun, blank gun, paintball gun, slingshot, blow gun or any other device in which force is used to propel projectiles is prohibited. This prohibition shall not apply to any law enforcement officer who is engaged in the discharge of official duties.
- (f) Fireworks are allowed in designated areas on the dates and times allowed by the Board of County Commissioners.
- (g) Throwing of cans, bottles, paper, junk or refuse of any kind on the ground or in the Lake is prohibited. The alteration, destruction or removal of seats, tables, park buildings, and other park equipment is prohibited.
- (h) Washing or throwing of waste of any kind around water faucets or fountains or the use of woods as toilets, or the use of toilets as bathhouses is prohibited.
- (i) Building or starting fires in the open or in any place except in county provided fire rings and grills, or personal grills used for cooking purposes only is prohibited.
- (j) No cats, dogs or other pets shall be allowed (a) in the swimming area, (b) on the swimming beach, or (c) on any dock. Unless in a designated Off-Leash area, dogs shall not be allowed in other areas of the Park unless restrained by a

chain or controlled by a leash of no longer than 6 feet. This paragraph shall not apply to dogs present to assist the blind, the visually impaired and persons who are otherwise disabled, pursuant to the legislative declaration of public policy set forth at K.S.A. 39-1101 et seq. and amendments thereto.

- (k) The speed limit on Park roads is 20 miles per hour except where otherwise posted.
- (l) Horseback riding in the Park is prohibited. Driving automobiles, all-terrain vehicles (ATV's), motorcycles or other motorized vehicles anywhere other than on developed roads and in developed parking lots is prohibited.
- (m) Camping in the Park is prohibited except by permit in the designated camping area. Persons using the campground must comply with the Park Rules and Regulations Pertaining to Camping (see Section 8-201.5).
- (n) It is prohibited to engage in disorderly conduct at the Park. Disorderly conduct shall include:
 - (1) Those acts prohibited by K.S.A. 21-4101, and amendments thereto, which is hereby incorporated herein by this reference; or
 - (2) Intoxication due to the consumption of alcohol, drugs, or controlled substances or a combination thereof.
- (o) There is no lifeguard is on duty. All persons swim at their own risk. Bathing, swimming, and wading is prohibited, except in the designated swimming area from May 1 through September 15 from dawn (30 minutes before sunrise) to dusk (30 minutes after sunset) or as otherwise permitted by the Director of Public Works or the Board of County Commissioners. Bathing, swimming and wading in the cabin arm of Lone Star Lake (hereinafter the "Lake") by lake front property owners or their guests is permitted only within 50 feet of each lake front property owner's shoreline. Swimming beneath docks or dock catwalks is prohibited anywhere in the Lake including the designated swimming area and in the cabin arm of the Lake.
- (p) The use of rubber rafts, air mattresses, tubes and other flotation devices which are not U.S. Coast Guard approved is prohibited (i) outside of public swimming areas and (ii) more than 50 feet from the shoreline in public swimming areas. This prohibition does not include inflatable float tubes, inflatable pontoon boats, inflatable canoes, inflatable kayaks, or other

inflatable personal watercraft manufactured and designed primarily for fishing while such watercraft is used for fishing activities.

- (q) Ice skating, ice boating, ice sledding, and ice fishing on the Lake are prohibited.
- (r) The Park is a game sanctuary. Hunting, shooting, killing, trapping, injuring, pursuing, harassing or molesting in any way any bird or animal on or within the Park is prohibited.
- (s) The use of unmanned aerial vehicles, i.e., drones are prohibited in the campground and the swimming arm areas.
- (t) The use of water craft on the Lake is subject to State of Kansas laws and regulations, and amendments thereto, which are incorporated herein by this reference, and rules and regulations set forth in Section 8-201.3 and Section 8-201.4.
- (u) The possession, use or consumption on Park property of any controlled substance in violation of K.S.A. 65-4101 et seq., and amendments thereto, is prohibited. The possession, use or consumption of alcohol, alcoholic liquor or beer, as such terms are defined in K.S.A. 41-102, and amendments thereto, or cereal malt beverage, as such term is defined in K.S.A. 41-2701, and amendments thereto, is prohibited in or on the designated beach area(s), any floating dock, the established swimming area, and where otherwise prohibited by State of Kansas law. No alcohol, alcoholic liquor, or cereal malt beverage may be possessed, used or consumed in or from containers with a capacity in excess of one U.S. gallon.
- (v) The Board may adopt special rules to govern special events.
- (w) Parking is prohibited on Park roads at such locations as the Board or the Director of Public Works determines necessary or advisable to facilitate traffic flow or enhance the safety or enjoyment of the patrons of the Park; provided that the Director of Public Works shall post appropriate "No Parking" signage prior to enforcement. Without limiting No Parking areas on other Park roads, each of the following locations are designated and shall be appropriately signed to prohibit parking:
 - (1) The road across the Lake Dam and the Spillway, more particularly described as follows: Commencing at the east end of the Lake Dam Flood Wall, which is 230 feet east of the intersection of Douglas County Route No. 1-

W, also known as E. 582 Road, and Douglas County Route No. 1-E, also known as E. 715 Road, thence westerly across the Lone Star Lake Dam a distance of approximately 1,880 feet, thence southerly on a curve to the left across the Lone Star Lake Spillway a distance of 380 feet to the intersection with a side road leading toward the lake and terminating at said intersection.

- (2) The road past the Marina and Swimming Beach area, more particularly described as follows: Beginning at a point approximately 277.47 feet North and 218.60 feet East of the Southeast corner of the North half of the Northeast Quarter (N. $\frac{1}{2}$, N.E. $\frac{1}{4}$) of Section 14, Township 14 South, Range 18 East of the Sixth Principal Meridian, said point being on the centerline of Route 1-E, thence Westerly on the centerline of said Route 1-E to a point approximately 460.82 feet North and 724.28 feet West of the Southeast corner of the North half of said Northeast Quarter (N. $\frac{1}{2}$, N.E. $\frac{1}{4}$) and terminating at said point. Also, from a point on said centerline of Route 1-E, approximately 650 feet westerly from said point of beginning, thence southerly along the centerline of a side road 400 feet and terminating at that point. (Res. No. 20-22, Sec.1)

8-201.2 RULES AND REGULATIONS PERTAINING TO FISHING. The following rules and regulations pertaining to fishing are hereby adopted:

- (a) Fishing in the Lake is subject to State of Kansas laws and regulations. All laws of the State of Kansas, as amended, pertaining to fishing in state lakes are hereby adopted and incorporated herein by reference.
- (b) Except from the designated accessible fishing dock on the north shore of the swimming arm, it shall be unlawful for any person to fish in the swimming arm from May 1st through September 15th, or to fish in any part of the Lake where "No Fishing" signs have been posted. Fishing with a seine, throwline, trotline, spear, bow, hand fishing or any other method than with a pole and line is illegal. (Res. No. 20-22, Sec. 1)

8-201.3 RULES AND REGULATIONS PERTAINING TO BOATS, MOTORS AND BOATING. The following rules and regulations pertaining to boats, boating and motors are hereby adopted:

- (a) The boating and watercraft regulations of the State of Kansas as set forth in K.S.A. 32-1101 et seq., and amendments thereto, and the regulations adopted pursuant thereto, are hereby adopted and incorporated herein by reference.
- (b) All persons keeping, maintaining, operating or riding in boats on the Lake do so entirely at their own risk.
- (c) The use of inboard motor boats, jet skis, wave runners, and similar personal watercraft is prohibited on the Lake. Inboard-outboard and outboard motor boats shall be permitted.
- (d) All power boat activity is prohibited in the swimming arm from May 1st to September 15th. Canoes, kayaks and stand up paddle boards (SUP's) are permissible in the swimming arm during this period. All minors involved in such activity shall be supervised by persons 21 years of age or older and there shall be no interference with swimming activities of Lake Patrons or with fishing activities from the designated accessible fishing dock on the north shore of the swimming arm.
- (e) No boats shall be left unattended on the Lake overnight. Cabin owners may use their own private docks. All boats shall be launched at boat ramps.
- (f) Except when fishing or going to or from the shore, no motor boats shall be operated within 100 feet of shoreline. Operators of motor boats shall be extremely careful and prudent at all times so as not to endanger life or safety, unnecessarily discomfort others, or interfere with any person who may be fishing from the shore. (Res. No. 20-22, Sec.1)

8-201.4 RULES AND REGULATIONS PERTAINING TO WATER SKIING AND BOAT SPEED. The following ski and speed regulations are hereby adopted:

- (a) The minimum crew of any skiing boat shall be not less than one pilot and one observer.
- (b) No owner or person in possession of a ski boat shall permit a person under 14 years of age to operate the ski boat. Persons 14 through 17 years of age shall not operate a ski boat unless accompanied and under the direct and audible supervision of a parent or other person 21 years of age or older.
- (c) All skiers shall wear U.S. Coast Guard approved life preservers while skiing, and all other State of Kansas safety

regulations shall apply to both skier and boat. Those waiting to ski shall not wade or swim.

- (d) All areas of the Lake are “**No Wake**” areas, except for the designated ski area. The speed limit in the designated ski area on non-ski days is 8 mph. Skiing outside of the ski buoy markers is prohibited.
- (e) Skiing is allowed on Lone Star Lake only on and between May 20 and September 15 each year on Wednesday through Sunday of each week, on Memorial Day, the Fourth of July, and Labor Day, and on such other days as the Board of County Commissioners of Douglas County, Kansas approve. Skiing is only allowed on such days between 12:00 noon and 8:00 p.m., and at such other times as the Board approves. Skiing is prohibited on all other days and at all other times.
- (f) Speed limits in “Fishing Only” water shall be trolling speed which shall not create a wake. (Res. No. 20-22, Sec. 1)

8-201.5 RULES AND REGULATIONS PERTAINING TO CAMPING. The following rules and regulations pertaining to camping are hereby adopted:

- (a) The Park camping season shall be from April 1st to October 15th. The Park shall be closed for camping from October 16th through March 31st. A Park Permit for camping is required. No reservations are accepted. Check out time is 4:00 PM.
- (b) Quiet hours shall be observed from 10:00 p.m. to 6:00 a.m. No noise or activity shall be discernible outside each campsite during such quiet hours.
- (c) You must be 18 years of age or older to rent a campsite.
- (d) Camping facilities are for recreational camping only. No camping term at the Park shall exceed fourteen continuous calendar days. Any camping term in excess of fourteen continuous calendar days shall be followed by an absence of at least five continuous calendar days.
- (e) Camping shall be allowed only at developed sites designated for camping.
- (f) A maximum of two camping shelters shall be allowed per camping site with a maximum of 8 persons per site. A suitable camping shelter is required. A suitable camping shelter is one whose primary purpose is for camping and is appropriate for anticipated weather during the camping visit. Suitable shelter

may include camping gear intended to protect the camper from the elements. Other than recreational vehicles, vans converted for camping, or truck beds equipped with a camper unit or camping shell cover, a suitable camping shelter does not include motor vehicles.

- (g) Violation of any camping regulation shall result in immediate revocation of the camping permit and expulsion from the Park. In addition, penalties as described in Section 8-201.8 may be enforced.
- (h) The Director of Public Works may allow non-profit groups special permission to exceed the number of camping shelters and campers allowed on any specific camp site. (Res. No. 20-22, Sec.1)

8-201.6 RULES AND REGULATIONS PERTAINING TO THE SPILLWAY. Douglas County Home Rule Resolution No. HR-01-8-2, codified at Section 8-202 of the Douglas County Code, relating to the Lake Spillway located at the west end of the earthen dam forming the north shore of the Lake, stipulates that unauthorized access to the spillway is restricted in the following areas:

All areas within 25 feet on either side of the concrete portion of the spillway from the northern edge of County Route No. 1-West where it crosses the spillway to the northern edge of the spillway stilling basin where the spillway becomes Washington Creek.

As set forth in Section 8-202 (c) of the Douglas County Code, any person who violates those restrictions shall be guilty of a misdemeanor, punishable by a fine in the amount of \$250.00. See Section 8-202 of the Douglas County Code for further information concerning regulating access to and use of the spillway. (Res. No. 20-22, Sec. 1)

8-201.7 FEES FOR PERMITS ISSUED FOR THE LONE STAR LAKE PARK. The following permit fees for camping are hereby adopted:

- (a) Camp Site No Electricity \$11.00 (per day)
- (b) Camp Site w/Electricity \$16.00 (per day)

(Res. No. 20-22, Sec. 1)

8-201.8 PENALTIES FOR FAILURE TO COMPLY. The following are hereby adopted:

- (a) Any violation of any of the rules and regulations set forth in Section 8-201.1 through this Section 8-201.8, inclusive, shall be deemed a misdemeanor punishable upon conviction

thereof by a fine not exceeding \$100.00, or a term of confinement not exceeding thirty days in the county jail, or both such fine and imprisonment.

- (b) In addition to any other method of initiating a criminal proceeding under applicable law, criminal proceeding may be initiated for violation of any provision of Section 8-201.1 through this Section 8-201.8 by making an offense report and serving a uniform complaint and notice to appear upon the accused. The offense report shall be forwarded to the district attorney for prosecution.
- (c) Each day that any violation occurs shall constitute a separate offense and shall be punishable as a separate violation. Provided, however, that if any person is found guilty of a violation hereunder and it shall appear to the court that the violation complained of is continuing, then in addition to the penalty set forth, the court shall enter such order as it deems appropriate to cause the violation to be abated.
- (d) Compliance with the rules and regulations set forth in Section 8-201.1 through 8-201.7, inclusive, is mandatory and is a prerequisite to the use and enjoyment of the Park. Therefore, in addition to the penalties set forth in Section 8-201.8.a, the privilege of any person to use and enjoy the Park may be temporarily suspended or revoked by the Douglas County Sheriff, the Director of Public Works, or their designees for violation of any of the rules and regulations contained herein. Such suspension or revocation may apply to the use or enjoyment of all Park facilities or may be limited to specific items, such as operation of a boat on the Lake. Any such suspension or revocation shall, but only at the request of the alleged violator, be reviewed within two (2) working days by the County Administrator or his/her designee who shall either affirm or reverse the action. A decision to affirm may be appealed to the Board of County Commissioners but such appeal shall be filed within three working days. Revocation of the privilege of a person to operate a boat on the Lake may only be restored by making application to the Board of County Commissioners. The Douglas County Sheriff shall enforce any temporary suspension or revocation. Violation of a temporary suspension or revocation shall be unlawful and shall give rise to a separate offense hereunder. (Res. No. 20-22, Sec. 1)

8-201.9 DESIGNATION OF AREAS AND MAPS. Whenever these regulations reference designated areas, such as designated swimming area, designated skiing area, or designated camping areas, the reference shall mean those areas designated by the Director of Public Works for such use. The Director of Public Works shall appropriately mark all designated areas and may cause maps of the Park to be prepared and distributed providing information as to the location of each designated area. (Res. No. 20-22, Sec. 1)

8-202 PROHIBITING SPILLWAY ACCESS

- a) Purpose. The Board of County Commissioners of Douglas County, Kansas enacts this Resolution for the purpose of preventing the unauthorized use of, and access to Restricted Areas of the Lone Star Lake Spillway.
- b) Authority. This Resolution is enacted under the authority vested in the County Commissioners of Douglas County, Kansas by K.S.A. 19-101 et. seq. and the County's general police powers.
- c) Definitions. As used in this Resolution, the following words and phrases shall have the following definitions:
 - 1) The Lone Star Lake Spillway. The "Lone Star Lake Spillway" and the "Spillway" refer to the artificially created outlet to Lone Star Lake located at the west end of the earthen dam that forms the north shore of Lone Star Lake in Marion Township, Douglas County, Kansas.
 - 2) Restricted Areas of the Spillway. The "Restricted Area of the Spillway" shall include all areas within 25 feet on either side of the concrete portion of the Spillway, and shall extend north from the northern edge of Douglas County Route 1 West, where it crosses the Spillway, to the northern edge of the Spillway stilling basin, where the Spillway becomes Washington Creek. The Restricted Area of the Lone Star Lake Spillway shall be marked by signed placed by the Department of Public Works.
 - 3) Authorized Persons. "Authorized Persons" shall be those persons authorized to use and access the Restricted Areas of the Spillway, as follows:
 - (a) County employees or private contractors and their employees under contract to Douglas County may access the Spillway for the purposes of inspections, maintenance and repair of the Spillway.

- (b) Other persons who have obtained authorization to use or access the Spillway from the Douglas County Engineer, the Douglas County Administrator, the Board of County Commissioners or from another person or entity that the Douglas County Engineer, the Douglas County Administrator, or the Board of County Commissioners has designated as approved to grant such authorization.
- (c) Other representatives of local, county, state, and federal agencies requiring use or access the Spillway in the performance of their official duties, including law enforcement activities and purposes relating to the safety or welfare of the general public.
- (d) Unauthorized Persons. "Unauthorized Persons" shall be any person who is not an Authorized Person under Section 3.3.
- d) Prohibited Access/Use of Restricted Area of the Lone Star Lake Spillway. It is hereby declared unlawful for an Unauthorized persons to access, use, or trespass upon the Restricted Area of the Lone Star lake Spillway.
- e) Enforcement. The provisions of this Resolution shall be enforced as follows:
 - 1) Criminal Proceedings. Any person who violates the provisions of this Resolution shall be guilty of a misdemeanor, punishable by a fine in the amount of \$250.00
 - 2) Initiation of Criminal Proceedings. In addition to any other method of initiating a criminal proceeding under applicable law, any law enforcement officer may initiate a criminal proceeding under this Resolution by making an offense report and serving a citation and notice to appear in court upon the alleged violator. The offense report shall be forwarded to the district attorney for prosecution.
 - 3) Other Remedies. The provisions of this Resolution shall not limit any remedies that the Douglas County may have for unauthorized access to or destruction of County property as may be from time to time provided by other applicable law. (Res. No. HR-01-8-2)

8-203 CONSTRUCTION OF PRIVATE PROPERTY IMPROVEMENTS ON COUNTY PROPERTY WITHIN LONE STAR PARK.

- a) PURPOSE. Subject to the County Engineer's approval, the owner of a residential parcel located within the boundaries of Lone Star Park may extend certain private property improvements onto County property. These requirements are intended to facilitate landowner access and

enjoyment of the lake, and to protect the interests and safety of the public.

- b) IMPROVEMENTS ALLOWED.
 - 1) concrete or masonry sidewalks not exceeding six feet in width;
 - 2) concrete or wood stairways not exceeding six feet in width;
 - 3) concrete, masonry or wood retaining walls not exceeding four feet in height;
 - 4) one concrete or masonry patio not exceeding 200 square feet in area;
 - 5) one concrete or masonry patio not exceeding 200 square feet in area;
 - 6) one or two dock structures constructed of wood or steel, with a combined area on the water not exceeding 800 square feet.
- c) ROOFS. Roofs may be allowed on dock structures on the lake, provided that the total structure height does not exceed 17 feet above the water surface. Roofs, canopies or similar coverings will not be allowed on patios or decks. Multiple story structures will not be allowed.
- d) ACCESS TO THE SHORELINE AND LAKE. The property owner may construct and maintain the improvements listed in 8-203(b) in the area between their property and the lake. The building setback lines on the parcel will be used to further define where improvements may be constructed. All improvements must be contained within an area determined by extending the side setback lines to the shoreline, continuing an additional 50 feet into the lake. Dock structures must be contained within a distance of 50 feet from the shoreline. Improvements must not obstruct a roadway, driveway or walkway used by other landowners or the public.
- e) ACCESS TO ROADS, DRIVES AND PARKING. The property owner may construct sidewalks or stairways as listed in 8-203(b) to gain access to adjacent driveways or parking areas. Improvements must not obstruct a roadway, driveway or walkway used by other landowners or the public. These improvements will not be allowed if they have the potential to impact park operations or maintenance.
- f) ADDITIONAL LIMITATIONS. The improvements listed in 8-203(b) must be planned and constructed to avoid adverse impacts to the lake, shoreline or hillsides. Excavations will not be allowed if they have the potential to destabilize the shoreline or hillsides. Excavation, footings or ground anchors will not be allowed below the water surface of the lake. Soil, rock or other fill material will not be allowed in the lake.

- g) **PERMITTING AND APPROVAL.**
 - 1) Prior to construction or modification of any of the improvements listed in 8-203(b), the property owner must obtain a letter of approval from the County Engineer. The property owner must provide a plan drawing of the proposed improvement with enough information to determine compliance with this code.
 - 2) Prior to construction or modification of any dock structure, the property owner must also obtain a building permit from the Douglas County Zoning and Codes Department. The structure must comply with the design standards provided by the County. Structures not covered by prescriptive requirements of the building code must be designed by an engineer licensed in Kansas. The work will be subject to the inspection and approval requirements outlined for building permits in Chapter 13 of this code.
- h) **MAINTENANCE.** The improvements allowed in 8-203(b) shall be maintained by the private property owner. Structures shall be maintained and repaired as necessary to prevent unsafe conditions or hazards to the public.
- i) **EXISTING NONCONFORMING IMPROVEMENTS.** An existing improvement that is not in compliance with this code may be allowed to remain if it existed prior to January 1, 2021 and it does not create an unsafe condition or hazard to the public. Any alteration or replacement of the existing nonconforming improvement must meet the requirements of this code.
- j) **VIOLATIONS.** The County Engineer, or the Building Official, or their representatives may at any time inspect improvements made on County property. If an improvement is found to violate this code, the County will notify the property owner of the violation and necessary corrections to be made within 90 days. If the property owner fails or refuses to correct the violation within 90 days, the County may remove the improvement at the property owner's expense.
- k) **UNSAFE CONDITIONS.** If an improvement is found to be unsafe, or to present a possible hazard to the public or the user, the County will notify the property owner of the unsafe condition and necessary corrections to be made within 14 days. If the property owner fails or refuses to correct the violation within 14 days, the County may remove the improvement at the property owner's expense. (Res. No. HR-21-1-6, Sec. 2)

ARTICLE 3. WELLS OVERLOOK COUNTY PARK

- 8-301 WELLS OVERLOOK RULES AND REGULATIONS. Wells Overlook County Park is open and free to the public. Visitors are welcome to use it for the various activities permitted.
- a) The destruction of any sign, guidepost, or property of any kind is unlawful. This includes the peeling of bark, carving and chopping trees, cutting branches, driving nails, digging ground from roots, and the removal of trees, shrubs and plants, picking wild flowers, and other injuries.
 - b) The possession of firearms or other weapons in the park is unlawful.
 - c) Throwing of tin cans, bottles, paper, junk or refuse of any kind on the ground, or the misuse or abuse of seats, tables, park buildings and other park equipment is prohibited.
 - d) Washing or throwing of waste of any kind around water faucets or fountains or the use of woods as toilets is prohibited.
 - e) Building or starting fires in the open or in any place except where there proper provisions have been made is prohibited.
 - f) Dogs in the park must be tied with a chain or controlled by a leash. They are not allowed to run loose about the park.
 - g) Speed limit on park roads for vehicles is 10 miles per hour except where otherwise posted.
 - h) Horseback riding and the driving of automobiles or other vehicles on picnic grounds children's playgrounds, and areas posted against such traffic or use are prohibited.
 - i) Camping in the park is prohibited.
 - j) Disorderly conduct in the way of drunkenness, vile language, and fighting is prohibited. Indecent exposure is prohibited.
 - k) The use of intoxicating liquors on park premises is prohibited.
 - l) Wells Overlook County Park is a game sanctuary. Hunting, shooting, killing, trapping, injuring, pursuing, or molesting any way any bird or animal on or within the park is prohibited.
 - m) The park area is open only between the hours of 6:00 a.m. to 10:00 p.m.
 - n) Special rules will be adopted to govern special events.
 - o) The park superintendent is a deputy sheriff and is assisted by special deputies to preserve order and make arrests for violation of rules. (Res. 74-31, Sec. 1)

8-302 PENALTIES. Any person violating such rules and regulations shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding \$100 or commitment to the county jail for a period not exceeding 30 days or both such fine and imprisonment. (Res. 74-31, Sec. 1)

ARTICLE 4. PROHIBITION OF NUDITY ON PUBLIC PROPERTY.

8-401 NUDITY ON PUBLIC PROPERTY; DEFINITIONS.

- a) Nude shall mean any state of undress in which the human genitals, pubic region, buttock or female breast, at a point below the top of the areola, is less than completely and opaquely covered.
- b) Public Park and Recreation Area shall mean all real property in the unincorporated area of Douglas County that is owned, operated or managed by Douglas County, the State of Kansas, or the United States of America, or any agency thereof, or any other local unit of government, which is open for public visitation and usage for park or recreational purposes.
- c) Public Rights-of-Way shall mean all real property in which Douglas County has acquired an interest for roadway construction and maintenance purposes, including all improved or unimproved portions thereof. Public rights-of-way also shall include all bridges, culverts, and all appurtenances thereto used in connection with roadways constructed and maintained by Douglas County or any township thereof. (HR 90-4-1, Sec. 1)

8-402 PUBLIC NUDITY PROHIBITED. It shall be unlawful to be nude in any public park and recreation area or on any public rights-of-way in the unincorporated area of Douglas County. This shall include, but not be limited to, nudity during the acts of swimming, sunbathing, changing into or out of swimming garments or other clothes, or any similar act in any such area that is not enclosed or shielded from public view. (HR 90-4-1, Sec. 2)

8-403 PENALTY. Any person who violates section 8-402 shall be subject to a fine of up to \$50. (HR 90-4-1, Sec. 3)

ARTICLE 5. PROHIBITION OF MOTORIZED VEHICLES AND ANIMALS ON PATHS

8-501 PROHIBITION TO MOTORIZED VEHICLES. Other than those vehicles specifically authorized for maintenance purposes, it shall be unlawful to operate or park a motorized vehicle, other than that propelled by a human, upon any pathway or any bike, foot and hike path that is not otherwise designated for use or parking of such types of vehicles. (Res. 97-36, Sec. 1)

- 8-502 DEFINITION. Motorized and other prohibited vehicles shall include any device in, upon or by which any person or property is or may be transported or drawn, that is self-propelled by any means other than by human power. Motorized vehicles prohibited by this Article shall include but shall not be limited to cars, trucks, tractors, trailers, passenger vehicles, mopeds, motorized bicycles, motorcycles, go-karts and ATVs. (Res. 97-36, Sec. 2)
- 8-503 RIDING ANIMALS PROHIBITED. No animal of any kind shall be ridden on bike, foot and hike paths nor shall they in any way be used to propel or draw any vehicle or human on the designated bike, foot and hike paths. (Res. 97-36, Sec. 3)
- 8-504 DEFINITION. Animal shall mean any horse, mule, donkey, or canine. (Res. 97-36, Sec. 4)
- 8-505 PENALTY. Any person found guilty of violating this resolution shall be guilty of a Class C misdemeanor or subject to a civil fine not to exceed \$100.00 per each violation. (Res. 97-36, Sec. 5)