

CHAPTER IX. HEALTH AND SANITATION

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ARTICLE 1. GENERAL

9-101 **HEALTH OFFICER; DUTIES.**

As used in this Article, the title "Health Officer" shall be deemed to mean and refer to the Director of the City and County Health Department. It shall be the duty of the Health Officer and his or her duly authorized representative to enforce the provisions of this Article. The Health Officer or his or her duly authorized representative shall have the authority to enter into and examine at all reasonable times, all buildings, tracts, lots, parcels of ground and places of all description within the City for the purpose of ascertaining the conditions thereof so far as the public health may be affected thereby. (Code 1979, 9-101)

9-102 **POLLUTION OF STREAMS.**

No person shall throw, place or deposit in any stream, creek, lake or pond within the city limits any matter or thing liable to impede, impair or pollute the water therein, or to build, place, throw or deposit on or along the banks thereof, any structure or any matter or thing of any description liable to decay and produce any noxious gases or effluvia calculated to pollute or obstruct any of such waters. (Code 1979, 9-102)

9-103 **STAGNANT WATER.**

No owner or occupant of any lot, tract or parcel of land within the city limits shall remove any earth or soil from such lot, tract or parcel of land so as to cause water to collect therein and become stagnant, unclean, offensive or injurious to the individual or public health. (Code 1979, 9-103)

9-104 **SLAUGHTERHOUSES AND PACKING HOUSES.**

No person shall keep or maintain a slaughterhouse or packing house within the city limits in such manner as to be injurious to the health of the inhabitants of the city or in an unclean and filthy condition. (Code 1979, 9-104)

9-105 **COMMERCIAL POULTRY HOUSES.**

No person owning or occupying any rooms, buildings or any place where fowl, birds or game are dressed, cleaned or kept alive or dead shall allow such rooms or buildings to become nauseous, filthy or unhealthful nor shall they neglect to thoroughly cleanse and purify the

same at least every twenty-four (24) hours. All live poultry shall be kept within the building. (Code 1979, 9-105)

9-106

DUMPING MANURE.

No person shall dump any manure, except for fertilizing purposes, or other refuse matter on any public or private grounds within the jurisdiction of the Health Department of this City without first securing permission from the health department to do so. (Code 1979, 9-106)

9-107

CESSPOOLS; SEPTIC TANKS.

- (A) No person shall use, construct or maintain any cesspool or septic tank for the reception of sewage, waste or offal, upon any premises owned or controlled by such person within the City. The City-County Health Officer may determine in each instance whether a septic tank may be installed as a temporary measure pending the construction of a sanitary sewer in the area. Said permit shall be granted only after it is determined by said Health Officer that the use of a septic tank on a temporary basis will not create a nuisance or health hazard in the neighborhood. It is further provided that the owners of a tract of land containing three (3) acres or more may appeal a negative decision from the Health Officer to the City Commission. The City Commission will not act until they have a recommendation from the Public Health Committee of the Lawrence-Douglas County Board of Health. The City Commission will make the final determination.
- (B) Said septic tank system shall be designed and installed in accordance with the Lawrence-Douglas County Health Department's "Standards on Individual Septic Tank-Lateral Field Sewage Disposal Systems" now in effect or hereafter amended. Said system may be inspected by the Health Officer at any stage in construction. (Ord. 5218, Sec. 1)

9-108

SPITTING.

No person shall expectorate on or in any public building or upon the floor or any part of any public conveyance or upon any sidewalk abutting on any public street. (Code 1979, 9-108)

9-109

DUMPING SEWAGE PROHIBITED.

It shall be unlawful for any person, firm or corporation to cause or permit any sewage to be deposited, dumped, discharged or drained on the surface of the ground or about any public right-of-way or ditch within the City. For the purpose of this section, sewage is defined as any substance that contains any of the waste products or other discharges from the bodies of human beings or animals, or chemical or other wastes from domestic, manufacturing or other forms of industry. Such definition shall include but not be limited to the discharge from laundry operations, both domestic and institutional. (Code 1979, 9-111)

ARTICLE 2. HEALTH NUISANCES

9-201

NUISANCES DEFINED; 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 the City. Anything dangerous to human health, or anything that renders the ground, the water, the air or food hazardous or injurious to human health is hereby deemed and declared to be a nuisance. (Code 1979, 9-201)

9-202

WELLS, CISTERNS.

- (A) The Governing Body of the City of Lawrence finds open wells and cisterns to be a nuisance. It shall be unlawful for any person to allow any well or cistern located on the premises owned or occupied by him to be open or insecurely covered.
- (B) Any person found by the Health Officer to be in violation of this Section shall be sent notice of the violation by the Health Officer, requiring that he securely cover, fill up, or securely enclose the well or cistern. The notice shall specify a reasonable time during which the remedial actions are to be taken. The notice shall be sent by certified mail, postage prepaid, return receipt requested. (Code 1979, 9-202)

9-203

ABATEMENT OF NUISANCES; NOTICE; ASSESSMENT AND COLLECTION OF COSTS; PROCEDURE

- (A) The governing body of the City may have removed or abated from any lot or parcel of ground within the City any and all nuisances. The governing body may have drained any pond or ponds of water, at the cost and expense of the owner of the property on which the nuisance is located, whenever the City, county or joint board of health or other agency as may be designated by the governing body of the City files with the city clerk its statement in writing that such nuisance or pond of water, describing the same and where located, is a menace and dangerous to the health of the inhabitants of the City, or of any neighborhood, family or resident of the City. The governing body, by resolution, also may make such determination. (Ord. 7802)
- (B) Except as provided by subsection (C), the governing body shall order the owner or agent of the owner of the property to remove and abate from the property the thing or things therein described as a nuisance within a time, not exceeding 10 days, to be specified in the order. The governing body shall grant extensions of such ten-day time period if the owner or agent of the property demonstrates that due diligence is being exercised in abating the nuisance. The order shall state that before the expiration of the waiting period or any extension thereof, the recipient thereof may request a hearing before the governing body or its designated representative. The order shall be served on the owner or agent of such property by certified mail, return receipt requested, or by personal service. If the property is unoccupied and the owner is a nonresident, then by mailing the order by certified mail, return receipt requested, to the last known address of the owner. (Ord. 7802)
- (C) If the owner or agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice sent pursuant to this section during the preceding twenty-four month period, the governing body may provide notice of the issuance of any further orders to abate or remove a nuisance from such property in the manner provided by subsection (b) or as provided in this subsection. Except as specifically provided in this subsection, the governing body may provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail. (Ord. 7802)

9-204

ABATEMENT: COLLECTION OF COSTS.

If the owner or agent fails to comply with the requirement of the order for a period longer than that named in the order, the City shall proceed to have the things described in the order removed and abated from the lot or parcel of ground. If the City abates or removes the nuisance, the City shall give notice to the owner or agent by certified mail, return receipt requested, of the total cost of such abatement or removal incurred by the City. Such notice also shall state that payment of such cost is due and payable within 30 days following receipt of such notice. The City also may recover the cost of providing notice, including any postage, required by this section. If the cost of such removal or abatement and notice is not paid within the thirty-day period, the cost shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed and charged against the lot or parcel of ground on which the nuisance was located. If the cost is to be assessed, the city clerk, at the time of certifying other city taxes to the county clerk, shall certify such costs, and the county clerk shall extend the same on the tax roll of the county against the lot or parcel of ground, and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The City may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and any applicable interest has been paid in full. (Ord.7802)

9-205

FAT, OIL OR GREASE STORAGE.

(Ord. 9887)

- (a) Containers used for the storage of fat, oil, or grease shall be kept in leak-proof condition and shall be secured with close-fitting lids. Container lids shall be kept in the closed position whenever fat, oil, or grease is not being actively added. Unless otherwise provided herein, the storage container shall be kept in a location on the premises of origin of the stored fat, oil, or grease, to reduce the risk of an accidental or deliberate spillage of the waste onto the City's rights of way or into the City storm water collection system. Any container that cannot, due to physical space or accessibility issues, be kept on the premises of origin of the stored fat, oil, or grease, and therefore must be placed in the City's rights of way or communal shared areas, shall be clearly labeled with the name and address of the owner or lessee of the container, along with any user's name and address contributing fat, oil, or grease into the container. All stored fat, oil, or grease shall be removed from the container for recycling as frequently as may be necessary to prevent spillage and overflow, or any other public health nuisance or safety hazard.
- (b) Spillage of any fat, oil, or grease shall be removed and cleaned immediately. Cleaning methods utilized shall not contribute to the release of any material into the City storm water collection system. The entity listed on the container as the owner or lessee of the container, and any user contributing fat, oil, or grease to the container, shall be responsible for keeping the container and the area immediately surrounding the container free from any debris, refuse, spilled oil, fat, grease, absorbent materials, food scraps, or other materials that may create a public health nuisance condition or safety hazard or be washed into the City's storm water system during precipitation events.
- (c) The provisions of Sections 9-203 and 9-204 of this Article shall apply in the event that it becomes necessary to abate any nuisances under this Section.

ARTICLE 2A. HEALTH NUISANCES; EMERGENCIES

9-2A01

FINDINGS.

The Governing Body of the City hereby makes the following findings:

That the release of hazardous materials into the environment is injurious to the public health, safety and welfare and is hereby found to constitute a nuisance;

That the City may incur substantial expense for emergency actions to mitigate injury to the public health, safety and welfare from the release or threatened release of hazardous materials; and

That such expenses should properly be born by those that profit from the activities that resulted in the release or threatened release of hazardous materials into the environment. (Ord. 6015)

9-2A02

SUPPLEMENTAL TO FIRE CODE.

This Article is supplemental to Section 80.104 of the Uniform Fire Code, and is to be interpreted in harmony with it. (Ord. 6015)

9-2A03

NUISANCES PROHIBITED.

The release or threatened release of hazardous materials into the environment in violation of Section 80.104 of the Uniform Fire Code is a nuisance. It shall be unlawful for any person to permit, cause, keep or maintain any such nuisance within the City. (Ord. 6015)

9-2A04

CIVIL ACTION.

- (A) Any person responsible for a release or threatened release of hazardous materials into the environment which results in an emergency action shall be liable to the City for the City's recoverable expenses resulting from such action.
- (B) The staffs of each City Department involved in an emergency action shall keep a detailed record of its recoverable expenses resulting from the emergency action. Promptly after completion of the emergency action, the staffs shall certify those expenses to the City Manager. The City Manager, or his or her designee, shall give any and all persons responsible for the emergency action a written itemized claim for the total certified expenses incurred by the City for the emergency actions, and notice that if such claim is not paid in full within thirty (30) days, the City may initiate a civil action for the collection of the claim. Moneys recovered under this Article shall be credited to the appropriate funds of the City departments from which moneys were expended in performing the emergency.
- (C) The City Manager is hereby authorized to have an action brought on behalf of the City to recover any such claim which has not been paid within the specified thirty (30) days.
- (D) This civil remedy shall be in addition to, and not in lieu of, any criminal prosecution or penalty. (Ord. 6015)

9-2A05

DEFINITIONS.

The following definitions shall apply in the interpretation of this Article:

- (A) 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 any hazardous material into the environment.
- (B) Person shall mean any individual, corporation, association, partnership, firm, trustee, or legal representative.
- (C) Recoverable Expenses are all those expenses that are reasonable, and necessary for the emergency action, except as hereinafter provided. Recoverable expenses include, but are not limited to:
 - (1) Disposable materials and supplies acquired, consumed and expended specifically for the purpose of the emergency action.
 - (2) Any additional compensation payment to employees, consultants and contracts for time and effort devoted to the emergency action beyond the usual compensation of City employees normally then on duty. (The usual compensation of employees normally then on duty is not intended to be a recoverable expense.)
 - (3) Rental or leasing of equipment used specifically for the emergency action.
 - (4) Replacement costs for City equipment that 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) Any costs of cleanup, storage, or disposal of the released material.
 - (8) Costs associated with the services, supplies and equipment procured for a specific evacuation.
 - (9) Laboratory costs of analyzing samples taken during the emergency action.
 - (10) Medical expenses incurred as a result of response activities.
 - (11) Legal expenses that may be incurred as a result of the emergency action.
- (D) Threatened Release of Hazardous Material shall mean a condition which exists when a release of hazardous materials is likely to occur unless preventive measures are immediately taken to prevent such release.
- (E) Uniform Fire Code shall mean that certain fire prevention code and standards adopted as and amended by Article 2, Chapter VIII, of the Code of the City of Lawrence. (Ord.6015)

9-2A07

SAVINGS CLAUSE.

The Governing Body of the City hereby declares that if any section, paragraph, sentence or word of this Article be declared invalid for any reason, it is the intent of the Governing Body

that it would have enacted all other portions of this Article independent of the elimination of any such portion as may be declared invalid. (Ord. 6015)

ARTICLE 3. ICE CREAM

9-301 **STREET VENDORS; LICENSE REQUIRED.**

No person shall sell or offer for sale any ice cream from any vehicle upon the streets of the City without securing from the City Clerk a license therefor. (Code 1979, 9-401)

9-302 **LICENSE FEE; DURATION.**

The fee for the license required by this Article shall be in the amount and payable as set forth in Section 6-108.9. Such license shall expire as set forth in such Section. (Code 1979, 9-402)

9-303 **REVOCATION OF LICENSE.**

If the Health Officer shall believe that any person holding a license required by Section 9-301 of this Article is not in good faith complying with all the provisions of this Article, he or she shall report the same to the Governing Body. If the Governing Body shall find upon hearing that such person is not in good faith complying with such provisions, it shall have the right to revoke such license. (Code 1979, 9-403)

9-304 **SANITATION AND INSPECTION.**

Any person having obtained a license so to do may sell ice cream from a vehicle upon the streets of this City, but shall be subject to inspection by the Health Officer. Every person engaging in such occupation shall carry his or her stock of ice cream in a tightly closed container which shall not be opened except for such length of time as is absolutely necessary to make the sale or sales from time to time. All containers and equipment used in such occupation shall be kept scrupulously clean, and every person making such sales shall be at all times be scrupulously clean. The Health Officer shall have the right to inspect all vehicles, containers and equipment used in connection with such business. (Code 1979, 9-404)

9-305 **SELLERS OF ICE CREAM NOT TO BLOCK TRAFFIC.**

No person selling ice cream from a vehicle shall permit such vehicle to stand upon the streets at any one place for more than five (5) minutes. (Code 1979, 9-405)

ARTICLE 4. COLLECTION, HAULING, DISPOSAL OF SOLID WASTE

9-401 **REFUSE COLLECTION.**

The City shall have the exclusive right to collect and dispose of refuse within the City limits and no other person shall collect and dispose of refuse within the City unless authorized by license or other formal agreement with the City. The City shall establish, maintain and conduct a service for the collection and disposal of refuse and shall purchase such equipment and engage such employees as may be needed, and shall pay such prices, salaries and wages as the City Commission may authorize for efficient operation of such service.

The collection, transportation and disposal of refuse shall be at all times under the general supervision of the City Manager or the Director of the Municipal Services and Operations Department as the Manager's duly authorized agent who shall have the authority to make additional rules and regulations not inconsistent with the terms and provisions of this Article. Exceptions to these rules must be approved by the Director of the Municipal Services and

Operations Department.

Nothing in this Article shall prohibit any person from transporting his or her own refuse, but intervals of disposal shall be not less than that prescribed for the refuse collection system of the City, and the disposal shall be in the same manner and place prescribed for the City system. Those persons transporting their own refuse shall not be relieved from the minimum charge imposed in accordance with Section 9-411. (Ord. 9488, Ord. 6061, Code 1984)

9-402

DEFINITIONS.

As used in this Article, the following words shall have the meanings respectively set out opposite them. (Ord. 7797)

- (A) Garbage includes all kitchen and table refuse and every accumulation of animal, vegetable and other material that attends the preparation, consumption, decay or dealing in or storage of meat, fish, fowl, birds, grain, fruits, vegetables or other types of foods of whatever character and shall include all animal and vegetable refuse from kitchens and all household wastes that shall have resulted from the preparation of food including tin cans and bottles. Dead animals, dishwater and wastewater are not included under garbage.
- (B) Refuse includes any and all accumulations of waste material, garbage, trash, rubbish, paper, packing material, pasteboard, cinders, metal and small tree limbs under five (5) inches in diameter when cut to a length of not to exceed five (5) feet and tied in bundles. The term refuse shall include waste products from the construction, remodeling, demolition, demolition or repair of any building, or resulting from any construction or building operation. The term refuse shall not include:
 - (1) Sod, dirt, sand, rocks, bricks, or other masonry unless packaged in accordance with Sections 9-403 and 9-405, or placed in roll-off containers designated for such purpose.
 - (2) Any item posing unusual risk of injury to personnel or damage to the collection vehicle.
 - (3) Tires, except as provided in Section 9-412.9.
 - (4) Materials which have been set out for recycling.
 - (5) Hazardous waste or non-regulated materials, such as motor oil, antifreeze, car batteries.
- (C) Yard Waste includes leaves, grass, trimmings from lawn and flower gardens, and small twigs or sticks less than .5 inch in diameter.

9-403

CITY ROLL-OUT TRASH CARTS.

(Ord. 7797, 8781, Ord. 9488)

- (A) Each single-family and multiple-family dwelling unit, unless such dwelling unit is located in an area served by a trash dumpster, shall use a City Roll-out Trash Cart for the City's collection and removal of garbage, refuse, and yard waste.
- (B) The City shall provide to each single-family and multiple-family dwelling unit, unless

such dwelling unit is located in an area served by a trash dumpster, one City Roll-out Trash Cart. The City Roll-out Trash Cart shall be the property of the City and the City shall be responsible for its maintenance and repair.

- (C) City Roll-out Trash Carts will be made available in three sizes: 35 gallons, 65 gallons, and 95 gallons. The 65-gallon size shall be standard.
- (D) As set forth in Section 9-412.1(A), the monthly solid waste fee for each size City Roll-out Trash Cart shall be different. Additional City Roll-out Trash Carts shall be made available upon request for an additional rental and maintenance fee, as set forth in Section 9-412.1(B).
- (E) It shall be the duty of the owner or occupant of any single-family dwelling unit or the owner or occupant of any multiple-family dwelling unit, not served by a trash dumpster, to select the correct size and number of City Roll-out Trash Carts adequate to contain the amount of garbage, refuse, or yard waste ordinarily accumulated at such dwelling unit during the interval between the City's collection and removal of garbage, refuse, and yard waste.
- (F) The owner or occupant of any single-family dwelling unit or the owner or occupant of any multiple-family dwelling unit, not served by a trash dumpster, shall be responsible for cleaning and the day-to-day care of City Roll-out Trash Carts. The City will charge the owner or occupant a fee, as established by the Director of Municipal Services and Operations Department, for any necessary repair or replacement due to the owner's or occupant's abuse, misuse, or neglect of a City Roll-out Trash Cart.

9-404

COLLECTION PRACTICES: RESIDENTIAL, COMMERCIAL, INDUSTRIAL, AND CONSTRUCTION SOLID WASTE.
(Ord. 8781, Ord. 9335, Ord. 9488)

- (A) The only acceptable container for the City's collection and removal of garbage and refuse from single-family dwelling units and multiple-family dwelling units, that are not located in an area served by a trash dumpster, shall be the City Roll-out Trash Cart.
- (B) A maximum of twice per calendar year, the City will collect and remove an overflow of garbage and refuse from a dwelling unit in excess of that which can be contained by the City Roll-out Trash Cart. If a dwelling unit exceeds two such overflow incidents in one calendar year, the City will provide an additional or larger City Roll-out Trash Cart to the owner or occupant of that dwelling unit and the monthly solid waste fee will be adjusted accordingly. Overflow garbage and refuse must be securely bagged or placed in a secure container and may not exceed the 65-pound limit established by Section 9-405.
- (C) During an overflow incident, the City may collect non-conforming containers together with their contents for removal and disposal. Such containers, *e.g.*, cardboard boxes, paper boxes, pasteboard or fiberboard barrels, wicker baskets, *etc.*, may be placed for collection and removal, but said container will not be returned for reuse. If the non-conforming container exceeds the 65-pound limit established by Section 9-405 of this Article or if, in the opinion of the collector, the non-conforming container does not appear sturdy enough to permit loading without the spilling of its contents,

then it shall not be collected. Loose garbage and refuse placed in wheelbarrows, washtubs, or the like, will not be collected and removed.

- (D) Acceptable containers for yard waste shall be City Roll-out Yard Waste carts, or compostable kraft paper bags especially designed for yard waste. Plastic bags and other refuse cans are strictly prohibited. Yard waste in compostable kraft paper bags may not exceed the 65-pound limit established by Section 9-405 of this Article.
- (E) The City shall not collect garbage, refuse, or yard waste where jagged or sharp items protrude over the top of the City Roll-out Cart or other container. Additionally, broken glass shall be securely placed in a durable sealed package, prominently labeled, and placed in the City Roll-out Cart or other container so that the collector can recognize the risk of injury. A collector shall not dig through compacted garbage, refuse, or yard waste because of the risk of injury.
- (F) The owner or occupant of a dwelling unit is responsible for the clean-up of any garbage, refuse, or yard waste scattered or spilled because of the nature or condition of the City Roll-out Trash Cart or other container, or because of the nature and condition of the garbage, refuse, or yard waste. The owner or occupant of a dwelling unit also is responsible for the clean-up of any garbage, refuse, or yard waste that is scattered or spilled, for any reason, before the arrival of the City collectors.
- (G) The owner or occupant of a dwelling unit, located in an area not served by a trash dumpster, shall be responsible for providing a Collection Site that meets criteria established by the Director of the Municipal Services and Operations Department and that will insure that the City Roll-out Trash Cart or other container is secure and will not roll or move away from the Collection Site due to wind or gravity. The Collection Site shall be readily accessible to collectors, shall be located over a hard surface, shall have at least 12 feet in width, and shall be free from all obstructions to a height of 15 feet. Removal of all vehicles, equipment, snow, ice, tress, shrubbery, or other obstruction preventing safe access to the Collection Site shall be the responsibility of the owner or occupant of the dwelling unit. (Ord. 9488)
- (H) The City shall not be responsible for any damage or deterioration to privately owned driveways or parking lots resulting from the weight of the Solid Waste Collection Vehicle. The City shall not be responsible for any damage to utility lines, trees, shrubbery, or other growth extending into the 12-foot width or 15-foot height required of the Collection Site. Likewise, the City shall not be responsible for any injuries or property damage caused by the owner's or occupant's failure provide an adequate Collection Site or caused by any Roll-out Cart or other container that is not secured and rolls or moves away from the Collection Site.
- (I) The owner or occupant of a dwelling unit shall, unless otherwise approved by the Director of the Municipal Services and Operations Department, remove all City Roll-out Trash Carts or other containers from the street or alley within 24 hours after the City's latest collection. If any City Roll-out Trash Cart or other container remains in the street or alley in violation of this section, for the protection of the public health, safety, and welfare, collection supervisors shall have the authority to confiscate any such City Roll-out Trash Cart or other container.
- (J) Business, commercial, industrial, institutional, and professional facilities or

establishments shall dispose of solid waste in containers meeting criteria established by the Director of the Municipal Services and Operations Department or his or her designee. The container or containers must be adequate to contain the amount of garbage, refuse, or yard waste ordinarily accumulated at such place during the interval between City collection and removal of solid waste.

- (K) Solid waste from construction, remodeling, demolition, or repair of any building shall be placed in City roll-off containers specifically designed for that purpose, or the owner, occupant, or general contractor shall be charged special collection fees in accordance with Section 9-412.9(D).

9-405

MAXIMUM WEIGHT.

No manually collected refuse container when loaded shall weigh more than sixty-five (65) pounds, and no separate item or items of refuse manually collected shall weigh more than sixty-five (65) pounds, nor shall it be of such a size, volume or shape as to exceed what one person can reasonably be expected to lift and empty into a collection vehicle. The maximum weight for containers subject to mechanical pickup will vary with the type of collection equipment used. (Ord. 7797)

9-406

YARD, SHRUB, OR TREE TRIMMINGS, GRASS, LEAVES.

(Ord. 7797, Ord. 9335, Ord. 9488)

- (A) Yard, shrub, or tree trimmings not bundled or placed in approved containers will not be collected. Bundles must be tied securely, shall not be more than eighteen (18) inches in diameter, not more than five (5) feet long nor more than sixty-five (65) pounds in weight. Yard, shrub, and tree trimmings placed in kraft yard waste bags, or City approved yard waste roll-out carts are not to extend more than twelve (12) inches above the top of the bag or cart, or be so tightly packed that they must be pulled from the container by hand.
- (B) Grass and leaves will be collected separately from other refuse. This separate collection will be on the same day as residential trash collection each week during the yard waste season as specified by the Director of Public Works. Restrictions as to size, type, and weight of containers area as specified in 9-404(D) and 9-405.

9-407

PLACEMENT OF CONTAINERS FOR COLLECTION: DUTY TO REMOVE EMPTY RECEPTACLES FROM DESIGNATED COLLECTION POINT.

(Ord. 7388, Ord. 7802, Ord. 9335, Ord. 9488)

- (A) Unless another pickup point has been approved by the Director of the Municipal Services and Operations Department, all portable containers containing refuse, upon days of collection thereof, shall be placed by the occupant outside of any existing yard fence and within six (6) feet of the alley in all blocks where alley pickup service is provided or within six (6) feet of the curb in those blocks in the City where curb pickup service is provided.
- (B) Collection at the door or other agreed location may be authorized by the Director of the Municipal Services and Operations Department for hardship cases arising from physical impairment upon written application. Such special collection service shall be provided for a specified period, subject to renewal.

- (C) Containers shall be placed in a clearly accessible and uncluttered area to minimize risk of injury to the collector. Dogs tethered near refuse containers must be where they cannot interfere with the collection of refuse.
- (D) To ensure collection on the scheduled day, containers and other properly packaged refuse must be placed at the designated point of collection before 6:00 a.m. on the scheduled day of collection, but not earlier than 24 hours before that time. (Ord. 7388).
- (E) Containers and refuse left by the collection crew due to improper packaging must be removed from the curb as promptly as possible after the collection crew has departed, but not later than 24 hours after the collection crew has departed. The City shall not be responsible for the security of lids or containers after the collection crew has departed. (Ord. 7802)
- (F) The owner or occupant shall remove the trash receptacles from the designated collection point and/or the right-of-way within 24 hours of the trash pickup. Failure to comply with this section may result in the condition being declared an environmental code violation and subject to the enforcement measures set forth in Article 6 of this chapter. (Ord. 7802)

9-408

PROHIBITION AGAINST ACCUMULATIONS.

It shall be unlawful for the owner or occupant of any residence, institution, professional, commercial, or business establishment, or for contractors or builders engaged in construction or remodeling projects, to deposit or accumulate refuse in or upon any lot, parcel of land, public or private drive, alley, street or other place in the City. No person shall permit or allow any refuse to be scattered about in his or her yard or upon the premises occupied by him or her or to throw or deposit any refuse upon the premises of any other person or upon any of the streets, alleys or other public places in the City. (Code 1979, 9-508; Code 1984; Ord. 6061; Ord. 6385)

9-409

UNLAWFUL ACTS.

Unless authorized hereby to collect and dispose of refuse or to operate a service for the collection of material for recycling, it shall be unlawful for any person to: (Ord. 5649; Ord. 6061; Ord. 6385, Ord. 9488)

- (A) Remove any portion of the contents of any refuse container, or remove any material placed out by residents or occupants of any premise for collection by operators of recycling services authorized under the provisions of Article 9-416;
- (B) Upset, turn over, remove or carry away a refuse container or lid thereto, or to damage such container or lid in any manner;
- (C) Place or deposit refuse or any substance in a container other than his or her own, one which has been provided for his or her use, or a container provided and marked for public use;
- (D) Set out, or cause to be set out, refuse for collection that does not originate from the premises where it is set out unless specifically approved by the Director of the Municipal Services and Operations Department in each case;
- (E) Place any material other than refuse, as defined in Section 9-402.b, in any City-

owned container except with prior authorization by the Director of the Municipal Services and Operations Department; or

- (F) Place refuse in any container in such a manner as to prevent proper closure of the container lid.

9-410

PROHIBITED MATERIALS.

- (A) Dangerous material such as hot ashes, radioactive materials, acids, caustics, diseased or infected materials, highly volatile materials, or explosives, shall not be collected.
- (B) Materials not defined as refuse in Section 9-402 shall not be collected.
- (C) Cold ashes, sawdust, sand, dirt, powdery material, small gravel or material whose particles are less than one (1) inch in diameter, herbicides, insecticides, other home and garden chemicals, animal manure, and litter box refuse shall not be collected unless sealed in a durable, disposable container prior to being placed out for collection.
- (D) Materials defined as hazardous or infectious by federal or state agencies shall not be collected by the City.
- (E) Large appliance or mattress cartons or other boxes larger than thirty (30) inches per side will not be collected by residential collection crews unless collapsed or otherwise reduced in size so that they will easily fit into the collection vehicle. (Ord. 6061; Ord. 6385)

9-411

COLLECTION CHARGES.

The City Commission may from time to time, by ordinance, prescribe charges for the service of collection and disposal of refuse. Such charges shall be paid to the City Finance Department and shall be billed each month. The refuse collection charge shall be levied against every premise within the city limits which is receiving city water or sewer service and every occupied premise even though water or sewer service is not provided at the premises concerned, or when the water and/or sewer service is paid for by other parties. Should the charge for refuse collection become delinquent, the water service shall be discontinued under the terms as provided for failure to pay for such water service. Other appropriate legal means are authorized for delinquent accounts where water service is not provided. Recipients of bills for refuse charges which they believe to be erroneous must report the possible error to the City Finance Department's Utility Billing Office within thirty (30) days so that any required corrections may be made. The City Manager will make recommendations to the City Commission concerning refuse collection charges annually. (Code 1979, 9-512; Code 1984; Ord. 6061; Ord. 6385; Ord. 6837, Ord. 7388)

9-412

RATES AND SCHEDULES.

Until changed by ordinance, the following collection rates and schedules shall be effective:

9-412.1

RESIDENTIAL SERVICE

Each single-family single dwelling unit, single dwelling unit located in an area serviced by a trash dumpster, or multiple-family multiple dwelling unit, located in an area not served by a trash dumpster, shall be billed \$22.76 per unit per month as the monthly

solid waste service fee. As part of that fee, each single-family single dwelling unit or multiple-family multiple dwelling unit, located in an area not served by a trash dumpster, shall receive from the City one standard 65-gallon City Roll-out Trash Cart. Multiple dwelling units that are serviced by a trash dumpster shall be billed \$17.72 per unit per month as the monthly solid waste service fee. (Ord. 7795, Ord. 7900, Ord. 8012, Ord. 8131, Ord. 8284, Ord. 8416, Ord. 8546, Ord. 9004, Ord. 926, Ord. 9370, Ord. 9705, Ord. 9800, Ord. 9893, Ord. 9956, Ord. 10021, Ord. 10090)

- (A) Upon request made to the Division of Solid Waste Customer Service, the Municipal Services and Operations Department of Finance, the owner or occupant of a single-family single dwelling unit or the owner of a multiple-family multiple dwelling unit not served by a trash dumpster may obtain alternative service for the corresponding monthly solid waste service fee, as follows:

95-gallon City Roll-out Trash Cart	\$25.17 monthly
35-gallon City Roll-out Trash Cart	\$20.94 monthly

- (B) Upon request made to the Division of Solid Waste Customer Service, the Municipal Services and Operations Department of Finance, the owner or occupant of a single-family single dwelling unit or the owner of a multiple-family multiple dwelling unit not served by a trash dumpster may request additional City Roll-out Trash Carts for a monthly rental and maintenance fee, as follows:

95-gallon City Roll-out Trash Cart	\$5.75 monthly/each
65-gallon City Roll-out Trash Cart	4.54 monthly/each
35-gallon City Roll-out Trash Cart	\$3.34 monthly/each

- (C) Free of charge, the City will provide one cart size change per address/owner (or occupant) per calendar year. The City will charge a \$30.00 service fee for any additional requests to change cart sizes.
- (D) The replacement fee for any destroyed, missing, or confiscated City Roll-out Trash Cart shall be commensurate with the cost of replacement.
- (E) Additional fees shall be assessed for excessive amounts of garbage, refuse, or yard waste that requires a solid waste worker to expend more than five minutes to collect and remove the waste. The additional fee shall be established by the Director of Municipal Services and Operations or designee.

9-412.2

BUSINESS, COMMERCIAL, INDUSTRIAL, INSTITUTIONAL SERVICE

All business, commercial, industrial, institutional or professional facilities or establishments are classified, hereunder, as commercial customers and shall be charged the commercial rate as follows:: (Ord. 7795, Ord. 7900, Ord. 8012, Ord. 8131, Ord. 8284, Ord. 8416, Ord.

8546, Ord. 9004, Ord. 926, Ord. 9370, Ord. 9705, Ord. 9800, Ord. 9893, Ord. 9956, Ord. 10022, Ord. 10090)

- (A) The minimum commercial rate shall be \$34.03 per month, which allows the customer to have two (2) ninety-five (95) gallon poly-carts picked up once each week. The fee for any additional approved container will be \$16.66 per container per pick-up.
- (B) Commercial container rates include a rental and maintenance fee for the City-owned containers and a service charge for each pick-up or service call. This service charge is due for each service call even if the container cannot be emptied because the container is inaccessible or because the container has not been made ready for pick-up. Whenever the collection vehicle must wait for the customer to provide access or make the container ready for pick-up, a waiting-time charge of \$34.03 for each fifteen (15) minutes or fraction thereof will be levied.
- (C) In areas of the City where congestion and the lack of available space on-premises requires the use of commercial containers placed in or near alley rights of way or on public parking lots for the common use of business, professional, commercial, or other occupants of the block where the containers are located, charges shall be determined as follows:
 - (1) For buildings occupied by more than one business, institution, professional office, restaurant, club, or other enterprise, the rate shall be the sum of the rates for each individual occupant. The minimum rate for any occupant shall be the current minimum commercial rate.
 - (2) The rate for individual occupants will be established by square footage used or, as deemed appropriate by the Director of the Municipal Services and Operations Department, as published on the Downtown Solid Waste Rates page of the City's website, in comparison with rates charged to users similar in nature and size in areas of the City where rates are more precisely determined by the level of service requested by the owners or operators concerned.
 - (3) Charges for refuse collection service may be billed to the owner of the building or to the individual tenants at the option of the owner. Building owners choosing to have collection fees billed to the tenants must provide complete billing information to the City and provide timely notification of any tenant changes as they occur.
 - (4) Charges which cannot be collected from the tenants either during their occupancy or after they vacate the premises will be billed to the building owner.
 - (5) Building owners who are able to provide proper facilities for placing commercial containers on or near their premises for use solely by their tenants shall be billed at the container rate as set forth below.
 - (6) Owners of shopping centers are responsible for the payment of refuse collection charges for all of the occupants of the shopping center unless they provide specifically designated sites for the placement of containers for

each tenant and notify the City Solid Waste Division of the amount to be charged to each tenant if the sharing of containers is permitted or required by the shopping center owner.

9-412.3

RATES. (Ord. 7795, Ord. 7900, Ord. 8012, Ord. 8131, Ord. 8284, Ord. 8416, Ord. 8546, Ord. 8644, Ord. 8781, Ord. 9004, Ord. 926, Ord. 9370, Ord. 9705, Ord. 9802, Ord. 9893, Ord. 10022)

(A) The rates for one-ten (1-10) cubic yard refuse container rates are as follows:

Container Size (Cubic Yards)	Rental/Maintenance Charge Per Month (\$)	Service Charge Uncompacted	Per Pickup Compacted	Special Pickup Service
1.0	\$30.08	\$12.84	---	\$66.19
1.5	\$34.60	\$15.56	---	\$68.09
2.0	\$39.10	\$18.68	\$39.10	\$69.97
3.0	\$45.47	\$25.12	\$45.47	\$73.75
4.0	\$50.63	\$31.70	\$50.63	\$77.54
6.0	\$65.43	\$42.68	\$65.43	\$85.10
8.0	\$75.98	\$53.59	\$75.98	\$92.66
10.0	\$92.91	\$66.53	\$92.91	\$100.23

* The Special Pick Up Service is \$50.66 base charge plus \$3.07 per cubic yard.

(B) The rates for hook-lift refuse containers are as follows plus the landfill charge based on weight:

Container Size (Cubic Yards)	Rental/Maintenance Charge Per Month	Service Charge per Pickup
12.0	\$99.65	\$132.94
14.0	\$99.65	\$144.00
16.0	\$109.97	\$149.24
18.0	\$109.97	\$156.66

(C) The rates for roll-off refuse containers (uncompacted) are as follows plus the landfill charge based on weight:

Container Size (Cubic Yards)	Rental charge per Month	Service Charge per Pickup (uncompacted)
20.0	120.72	\$216.81
30.0	\$141.10	\$288.52
40.0	\$141.10	\$312.52

(D) The rates for roll-off refuse containers (compacted) are as follows plus the landfill charge based on weight:

Container Size (Cubic Yards)	Rental/Maintenance Charge Per Month	Service Charge Per Pickup
10.0	NA	240.29

20.0	NA	298.50
25.0	NA	298.50
30.0	731.51	342.13
35.0	731.51	385.76
40.0	731.51	385.76

- (E) The monthly rental and maintenance charge for city-owned roll-out carts provided for semi-automated collection shall be \$5.75 per month for capacities over 65 gallons and \$4.54 per month for capacities not exceeding 65 gallons. The fee for collection and removal from city-owned roll-out carts used by non-residential accounts shall be \$16.66 per collection.
- (F) The service charges per pickup listed in 9-412.3(D) shall be increased by \$109.09 per pickup for any roll-off container which must be off-loaded from the collection vehicle and reversed before it can be emptied.

9-412.4 ADDITIONAL COMMERCIAL CONTAINER FEES.

- (A) The rental and maintenance fee charged for any City-owned container rented for less than a month shall be one quarter (1/4) of the monthly fee for each week or portion thereof. (Ord. 7795)
- (B) Customers shall be charged a fee for the delivery of City-owned containers based on container size. For one (1) to ten (10) cubic yard containers the fee will be \$49.87. For containers larger than ten (10) cubic yards the fee will be \$77.53. (Ord. 7795, Ord. 7900, Ord. 8012, Ord. 8131, Ord. 8284, Ord. 8416, Ord. 8546, Ord. 8644, Ord. 9004, Ord. 9261, Ord. 9370, Ord. 9705, Ord. 9802, Ord. 9893, Ord. 9956, Ord. 10022, Ord. 10090)
- (C) A cleaning fee shall be charged for commercial customers requesting special container cleaning services due to the nature of their refuse. For containers up to ten (10) cubic yards in capacity the cleaning fee shall be \$58.81. For larger containers the fee will be \$131.63. (Ord. 7795, Ord. 7900, Ord. 8012, Ord. 8131, Ord. 8284, Ord. 8416, Ord. 8546, Ord. 8644, Ord. 9004, Ord. 9261, Ord. 9370, Ord. 9705, Ord. 9802, Ord. 9956, Ord. 10022, Ord. 10090)
- (D) Customers using City-owned containers over ten (10) cubic yards in capacity will be charged for a minimum of one (1) collection per month. (Ord. 7795)
- (E) Customers requesting collection of roll-off containers on Saturdays, Sundays, holidays, or at other times outside of regular City working hours will be billed an additional amount of \$200.00 to cover any added overtime and equipment costs. (Ord. 7900, Ord. 8012, Ord. 8131, Ord. 8284, Ord. 8416, Ord. 8546, Ord. 8644, Ord. 9004, Ord. 9261, Ord. 9370, Ord. 9705, Ord. 9802, Ord. 9893, Ord. 9956, Ord. 10022, Ord. 10090)
- (F) The rental and maintenance fee does not cover for other than routine maintenance. Damages from fires in or around the container will result in additional charges to cover labor and material for restoration of the container. (Ord. 7795)

- (G) Wheeled commercial containers which must be moved by hand by the collection crew shall be limited to no more than two hundred fifty (250) pounds per cubic yard. Heavier loads will be billed at twice the normal fee. (Ord. 7795)

9-412.5

BULK PICK-UP.

A fee schedule for certain types of residential bulk item waste may be established by the Municipal Services and Operations Department. Residential bulk item waste means large items which cannot be collected with standard residential solid waste collection equipment during weekly scheduled routes, such as ranges, bed frames, washers, water heaters, refrigerators, air conditioners, large quantities of carpet, and similar items. Residential customers shall make arrangements in advance for bulk pick up service in accordance with procedures established by the Solid Waste Division. Fees may apply for bulk items. Large bulk piles, which take an extended time for field staff to collect, will be charged fees, and the charges will appear on the City utility bill. Fees are determined by the Director of the Municipal Services and Operations Department based upon the time and equipment required to provide the service. (Ord. 9004, Ord. 9956)

9-412.6

SPECIAL PICK-UPS.

(Ord. 9004, Ord. 9261, Ord. 9370, Ord. 9488, Ord. 9705, Ord. 9956, Ord. 10022, Ord. 10090)

- (A) Unusual amounts of refuse that do not qualify for bulk pick-up service may be picked up if equipment and personnel are available, at the discretion of the Director of the Municipal Services and Operations Department. Fees will apply, as determined by the Director of the Municipal Services and Operations Department.
- (B) Waste tires will be collected only as permitted by the State Department of Health and Environment. Collection of waste tires will be conducted in accordance with regulations established by the Director of the Municipal Services and Operations Department.
- (C) Fees for special pick-ups (pick-ups requested on non-scheduled collection day or due to late cart set-outs) shall be charged \$50.00 plus additional fees determined by the Director of the Municipal Services and Operations Department based upon the time and equipment required to provide the service and in consideration of the disposal costs incurred. Fees may be collected in advance of the service at the discretion of the Director of the Municipal Services and Operations Department.

9-413

CHARGES, LOW-INCOME ELDERLY PERSONS.

Upon application made to the Solid Waste Division of the Municipal Services and Operations Department, the City shall grant to qualified low-income elderly persons a reduced monthly solid waste service fee. A qualified low-income elderly person is any individual who:

- (A) Is sixty years of age or more before January 1 of the current year; and
- (B)
 - (i) In the preceding calendar year, had an income from all sources that did not exceed \$16,566.00; or
 - (ii) Is the head of a family that, in the preceding calendar year, had a

family income from all sources that did not exceed \$22,484.00.

(Ord. 5021, Sec. 1; Ord. 6061; Ord. 6385; Ord. 6618; Ord. 6713; Ord. 6837; Ord. 6935; Ord. 7027; Ord. 7139, Ord. 7235, Ord. 7554, Ord. 7678, Ord. 7795, Ord. 7900, Ord. 8012, Ord. 8131, Ord. 8284, Ord. 8416, Ord. 8546, Ord. 8644, Ord. 8781, Ord. 9004, Ord. 9261, Ord. 9370, Ord. 9705, Ord. 9802, Ord. 9893, Ord. 9956, Ord. 10022, Ord. 10090)

9-414

REDUCTION OF CHARGE.

A low-income elderly person who applies for reduced dwelling unit sanitation service charge, and whose application is approved shall pay a flat rate monthly per dwelling unit of 35% of the regular monthly residential refuse charge. Applications for reduced sanitation user's charge shall be on forms supplied by the City, filed with or mailed to the City Finance Department Utility Billing Office. All information required on such forms shall be supplied by the applicant. Applications made prior to the first of any month and approved shall be granted for the following billing month and through the balance of that year. All qualifying persons must submit new applications annually to be eligible for the reduced rate through the next year. An individual may transfer this special rate status from one address to another unless such individual is disqualified by other circumstances. (Code 1979, 9-513.2; Ord. 6061; Ord. 6385 Ord. 6618, Ord. 9802)

9-415

COLLECTIONS; REGULAR INTERVALS.

The employees of the City shall make collections of refuse at such regular intervals as shall be prescribed by the Governing Body. (Code 1979, 9-514; Ord. 6061)

9-416

RECYCLING OF WASTE MATERIAL.

The City shall have the right to control and regulate recycling services within the City limits. No person shall operate a door-to-door service for the collection of recyclable material from residential, business, or other premises within the City unless authorized by license or other formal agreement with the City. Any person so licensed shall be required to comply with regulations established by the Director of Municipal Services and Operations Department. (Ord. 6061; Ord. 6155)

ARTICLE 4A. RESIDENTIAL RECYCLING SERVICES.

9-4A-101

DEFINITIONS.

(Ord. 8851)

- (A) Collection point shall mean the location specified in the residential recycling collection service rules and regulations from which the City will collect recyclable materials pursuant to this Article.
- (B) MRF shall mean Material Recovery Facility.
- (C) Permitted Recyclable Materials shall mean those materials set forth in Section 9-4A-108, which the City will accept as Recyclable Material in its residential recycling collection service.
- (D) Recyclable Materials shall mean any refuse designated from time to time by the governing body of the City of Lawrence, Kansas, by ordinance as being a permitted recyclable material for the purposes of separate disposal and collection in the City under the provisions of this Article.
- (E) Refuse shall have the meaning set forth in Chapter 9, Article 4 of the Code of the City of Lawrence, Kansas.

- (F) Single stream shall mean commingled recyclable materials collected in a single recyclable container by the City from single-family and multi-family residential customers.

9-4A-102

ESTABLISHMENT OF SERVICE; RESIDENTIAL RECYLING.

After October 15, 2014, the City shall have the right to collect permitted recyclable materials, as defined in this Article, for single-family and multi-family dwellings within the city limits of the City of Lawrence, Kansas. After October 15, 2014, no other person shall collect residential permitted recyclable materials within the City unless authorized by license or other formal agreement with the City. The City shall establish, maintain, and conduct a service for the collection of residential recyclable materials and shall purchase such equipment and engage such employees as may be needed, and shall pay such prices, salaries and wages as the City Commission may authorize for efficient operation of such service. The City may contract with a Material Recovery Facility (MRF) that provides recyclable material processing and related services. (Ord. 8851)

9-4A-103

SUPERVISION; RULES AND REGULATIONS.

The collection, transportation, and recycling of residential recyclable materials shall be at all times under the general supervision of the City Manager, or the Municipal Services and Operations Department as the Manager's duly authorized agent, who shall have the authority to promulgate rules and regulations not inconsistent with the terms and provisions of this Article. (Ord. 8851, Ord. 9489)

9-4A-104

VOLUNTARY PARTICIPATION.

Nothing in this Article shall prohibit any person from declining to recycle or transporting or recycling his or her own residential recyclable materials. Those persons transporting or recycling their own residential recyclable materials shall not be relieved from the monthly residential solid waste charge, which shall include the residential recycling service charge, imposed in accordance with Section 9-411 and Section 9-4A-110 of the Code of the City of Lawrence, Kansas. (Ord. 8851)

9-4A-105

RECYCLING COLLECTION SERVICES FOR SINGLE-FAMILY RESIDENTIAL CUSTOMERS.

(Ord. 8851)

- (A) The City shall provide single stream recycling collection services for permitted recyclable materials, as defined in this Article, for all single-family residential customers. The single-family residential customers' collection point for recyclable materials shall be adjacent to the customer's solid waste service collection point. The City shall provide containers for recyclable materials as set forth in Section 9-4A-107 of this Article.

- (B) The frequency of the residential recycling collection service shall be once every other week.

- (C) The collection service schedule shall be set forth in the residential recycling collection service rules and regulations.

9-4A-106

RECYCLING COLLECTION SERVICES FOR MULTI-FAMILY RESIDENTIAL CUSTOMERS.

(Ord. 8851)

- (A) The City shall provide single stream recycling collection services for permitted recyclable materials, as defined in this Article, for all multi-family

residential customers. The multi-family residential customers' collection service for recyclable materials shall be similar to the method in which the customers' solid waste is collected. The City shall provide the multi-family residential customers with access to containers for recyclable materials as set forth in Section 9-4A-107 of this Article at locations adjacent to the customers' solid waste service collection point.

- (B) The recycling service collection schedule and frequency of service shall be set forth in the residential recycling collection service rules and regulations.

9-4A-107

CONTAINERS FOR RECYCLABLE MATERIALS.

(Ord. 8851)

- (A) Single-family residential customers. The City shall provide single-family residential customers (not served by trash dumpster service) one standard 95-gallon, roll-out cart for recyclable materials. Single-family residential customers may decline the roll-out cart, request an alternative size, or request an additional roll-out cart.
- (B) Single-family residential customers served by trash dumpster service. Single-family residential customers served by trash dumpster service shall have access to dumpsters for recyclable materials located near or adjacent to the customers' solid waste service collection point.
- (C) Multi-family residential customers. Multi-family residential customers will be provided access to roll-out carts or dumpsters for recyclable materials on the premises which match the solid waste collection service on the premises.
- (D) Containers exclusively for recyclable materials. Roll-out carts and dumpsters for recyclable materials shall be used for recyclable materials only and shall not be used by customers to contain refuse, yard waste, or any other materials other than permitted recyclable materials. The roll-out carts and dumpsters for recyclable materials shall be the property of the City. The owner or occupant of any single-family dwelling unit or owner of a multi-family unit or complex shall be responsible for cleaning and the day-to-day care of the containers for recyclable material provided to them.

9-4A-108

PERMITTED RECYCLABLE MATERIALS. Residential customers may place the following materials in their designated roll-out cart or dumpster for recyclable materials for collection service: (Ord. 8851)

- (A) Glass food and beverage containers (glass bottles and jars);
- (B) Mixed paper (magazines, catalogues, junk mail, chipboard, milk / juice containers, paperback books and telephone books);
- (C) Newsprint (newspaper and advertising supplements);
- (D) Office paper (printer and copier paper);
- (E) Shredded paper, provided it is bagged in clear, plastic bags;
- (F) Corrugated cardboard containers (unwaxed cardboard boxes);

- (G) Tin, steel, aluminum and bimetal food and beverage containers;
- (H) Scrap metal sized to less than 30-inches in each direction and less than 50 pounds per piece (pots, pans, screen door trim, metal fixtures);
- (I) Plastic containers marked with recycling symbols #1 through #7 (plastic bottles, tubs and jars); and

The governing body may, from time to time, by ordinance, alter or amend the list of "Permitted Recyclable Materials."

9-4A-109

PREPARATION AND PLACEMENT OF PERMITTED RECYCLABLE MATERIALS BY CUSTOMERS.

(Ord. 8851)

- (A) All permitted recyclable materials consisting of glass, metal, or plastic containers shall be empty. All permitted recyclable materials consisting of paper materials shall be clean and dry. Residential recycling customers shall comply with the City's reasonable rules and regulations concerning the preparation of recyclable materials for collection.
- (B) Residential recycling customers who are provided roll-out carts for recyclable materials shall comply with the requirements of Section 9-407 of the Code of the City of Lawrence, Kansas.

9-4A-110

RESIDENTIAL RECYCLING SERVICE CHARGES.

(Ord. 8851, Ord. 9370, Ord. 9705, Ord. 9802, Ord. 9893)

- (A) For all single dwellings, and for each dwelling unit in multi dwellings structures, residential recycling service charges will be included in the standard monthly solid waste service charge.
- (B) Should the charges for residential recycling service become delinquent, the Finance Department shall pursue payment in the manner in which it collects other delinquent City utility bills.
- (C) Residential recycling service customers who believe that there is an error in the bill or charges, shall report the alleged error to the City Finance Department's Utility Billing Office within thirty (30) days of receipt of the bill so that corrections may be made, if appropriate. The City Manager will make recommendations to the City Commission concerning residential recycling collection service charges annually for multiple dwelling unit and single dwelling unit integrated solid waste charges.

9-4A-111

ADDITIONAL FEES ASSESSED FOR PLACEMENT OF UNACCEPTABLE MATERIALS WITH RECYCLABLE MATERIALS.

(Ord. 8851)

- (A) The City shall charge the single-family residential customer a fee of \$5.00 for each roll-out cart for recyclable materials that contains unacceptable materials that must be disposed of by the City as refuse.
- (B) The City shall charge the owner of the premises of a multi-family residential unit or complex a fee for each recyclable materials dumpster that contains unacceptable materials that must be disposed of by the City as refuse. The charge shall be in accordance with the service charge schedule set forth in Section 9-412.3 of the City Code.

- (C) A cleaning fee shall be charged for customers requesting special container cleaning services for residential recyclable material containers on the same basis as refuse containers, as stated in section 9-412.4 (C) of the City Code.
- (D) A replacement fee of \$50.00 for each cart for any destroyed, missing, or confiscated roll out cart for recyclable materials.

9-4A-112

UNLAWFUL ACTS.

On and after October 15, 2014, it shall be unlawful for any person to: (Ord. 8851)

- (A) Remove any portion of the contents of any residential recyclable material container, or remove any material placed by residents or occupants of any residential dwellings at the designated recyclable materials collection point.
- (B) Upset, turn over, remove or carry away a recyclable materials container, or to damage such container in any manner.
- (C) Set out, or cause to be set out, recyclable materials for collection that do not originate from the premises where it is set out unless specifically approved by the Municipal Services and Operations Department in each case. (Ord. 9489)
- (E) Place any material other than permitted recyclable materials, as defined in Section 9-4A-108.
- (F) To intentionally contaminate or soil recyclable materials so as to cause the City or the MRF to reject a load or loads of recyclable materials.
- (G) To damage destroy carts or trash dumpsters for recyclable materials.

9-4A-113

PENALTIES.

Engaging in any of the unlawful acts set forth in this Section shall be a separate municipal offense. Any person violating a provision of Section 9-4A-111 of this Article, shall upon an adjudication of guilt or the entry of a plea of no contest, be subject to a minimum fine of \$25.00 for each unlawful act. (Ord. 8851)

9-4A-114

SEVERABILITY.

If any section, clause, sentence, or phrase of this ordinance is found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining parts of this ordinance. (Ord. 8851)

ARTICLE 5. FENCE AND SCREENING REQUIREMENTS FOR OPEN STORAGE

9-501

PURPOSE.

The purpose of this Article shall be to prevent community blight, to prohibit unauthorized persons physical access to the open storage of salvaged materials, salvaged motorized vehicles, used furniture or used appliances and to protect values of adjacent properties. (Code 1979, 9-601)

9-502

REQUIREMENTS.

From and after December 21, 1976, upon all property within the City of Lawrence, Kansas, any part of which is commercially or industrially used and which is adjacent

to and within two hundred (200) feet of any property on which there is a residential use conforming to lawful zoning and upon the commercially or industrially used property there is an open storage of salvaged materials, salvaged motorized vehicles, used furniture or used appliances such open storage shall be enclosed by a fencing system which denies physical access to unauthorized persons and a screening system which obscures visibility from the adjacent residential uses. For the purpose of this Article, salvaged materials shall include used metals, wood, rope, rags, batteries, trash, rubber debris, or other used materials; and salvaged motorized vehicles shall include motor vehicle bodies or parts or accessories therefrom gathered together for the purpose of dismantling, storage for hire, offering for sale, trade or reuse or any motorized vehicle inoperable for a period of thirty (30) days or more. (Code 1979, 9-602)

9-503

FENCING AND SCREENING; ALTERNATIVES.

For the purpose of compliance with this Article, a fencing and screening system may include any of the following:

- (A) A solid fence of wood, masonry, or baked enamel metal which is not less than six (6) feet in height nor more than ten (10) feet in height; or
- (B) An open wire fence, which is not less than five (5) feet in height nor more than ten (10) feet in height, combined with trees, shrubs or other vegetation as approved by the City Superintendent of Parks and Forestry which would obscure the visibility of the stored materials, furniture, appliances or vehicles in a period of time not to exceed five (5) years; or
- (C) Any other fencing or screening system which is approved by the Lawrence City Commission which effectively denies unauthorized access to and obscures visibility of the open storage area in use. Any of the above permitted fencing and screening alternatives may provide spaces through which the wind may travel without disturbing such fences or screens but ninety percent (90%) screening coverage must still be maintained and no such space may exceed three (3) inches in width. (Code 1979, 9-603)

9-504

MAINTENANCE.

All fencing and screening systems as required by this Article shall be maintained in a good and sufficient state of repair and maintenance as to continue to provide their fencing and screening functions and not create a safety hazard. (Code 1979, 9-605)

9-505

VARIANCES.

When the City Commission finds that the unique circumstances of the open storage of such materials does not necessitate the above fencing and screening requirements, they may waive any part of or the entirety of this Article by granting a variance. Prior to hearing such variances, application must be made in written form to the City Clerk. Each application must be accompanied by a current certified list, prepared by the County Clerk, of the names and mailing addresses of all property owners within two hundred (200) feet of the exterior boundaries of the property to be considered in the application. The City Clerk shall cause notice to be given by mail to all said property owners of record no less than fourteen (14) days prior to the date of variance consideration. If, at any time, the unique circumstances of the variance request should be altered, the City Commission shall revoke the granted variance. (Code 1979, 9-606)

ARTICLE 6. PROPERTY MAINTENANCE CODE

- 9-601 **PROPERTY MAINTENANCE CODE ADOPTED AND INCORPORATED.**
The *2018 International Property Maintenance Code*, published by the International Code Council, Inc., other than those portions hereinafter specifically deleted, modified, or amended, is hereby adopted as the Property Maintenance Code of the City of Lawrence, Kansas, and is incorporated herein by reference as if set forth in full. (Ord. 8873, Ord. 9203, Ord. 9247, Ord. 9563)
- 9-602 **OFFICIAL COPY.**
Not less than one (1) copy of the *2018 International Property Maintenance Code* shall be marked or stamped "OFFICIAL COPY AS INCORPORATED BY ORDINANCE No. 9563," with all sections or portions deleted, modified, or amended clearly marked as such, and to which one (1) copy of this ordinance shall be affixed, shall be filed with the City Clerk, shall be open to inspection, and shall be available to the public during reasonable business hours. Additional official copies shall, at the cost of the City, be supplied to those officials and agencies charged with enforcement of the City's Property Maintenance Code.
- 9-603 **AMENDMENTS TO THE 2018 INTERNATIONAL PROPERTY MAINTENANCE CODE.**
The *2018 International Property Maintenance Code* is amended as set forth in the succeeding sections of this Article. These amendments shall not serve to delete, modify, or amend any discretely numbered section or subsection of the *2018 International Property Maintenance Code*, unless the section or subsection is specifically identified as being deleted, modified, or amended.
- 9-604 **Section [A] 101.1 of the 2018 International Property Maintenance Code** is hereby deleted. In its place, the Governing Body enacts the following:

[A] 101.1 Title. These regulations shall be known as the Property Maintenance Code of the City of Lawrence, Kansas.
- 9-605 **Section [A] 102.3 of the 2018 International Property Maintenance Code** is hereby amended to read as follows:

[A] 102.3 Application of other codes. Repairs, additions, or alterations to a *structure*, or changes of *occupancy*, shall be done in accordance with the procedures and provisions of the *International Building Code*, *International Existing Building Code*, *International Energy Conservation Code*, *International Fire Code*, *International Fuel Gas Code*, *International Mechanical Code*, *International Residential Code*, *International Plumbing Code* and NFPA 70, all as adopted by the City.
- 9-606 **Sections [A] 103.1, [A] 103.2, [A] 103.3, [A] 103.4, and [A] 103.5 of the 2018 International Property Maintenance Code** are hereby deleted. In their place, the Governing Body enacts the following:

[A] 103.1 General. The Director of Planning and Development Services, herein and in the *2018 International Property Maintenance Code* referred to as the "*code official*," or his or her designee, shall be charged with enforcement of the Property Maintenance Code of the City of Lawrence, Kansas.
- 9-607 **Sections [A] 106.4 and [A] 106.5 of the 2018 International Property Maintenance Code** are hereby deleted. In their place, the Governing Body enacts the following:

[A] 106.4 Violation Penalties. Any *person*, who shall violate a provision of the *this code*, or fail to comply with *this code*, or with any of the requirements of *this code*, shall be prosecuted within the limits provided by state or local law. Each day that a violation continues after due notice has been served shall be deemed a separate offense. Any *person* convicted of a violation of any provision of this Article shall be punished by a fine in an amount not less than one hundred dollars (\$100), nor more than five hundred dollars (\$500), by a jail term of not less than 5 days, nor more than 3 months, or both by such fine and jail term.

[[A] 106.5 Abatement of Violation. In addition to -- or as an alternative to -- prosecution under Section 106.4, the *code official* may seek abatement of a violation of *this code*. If a *person* to whom notice of violation has been sent has neither remediated the conditions causing the alleged violation nor requested a hearing before the Building Code Board of Appeals within the time specified, then the *code official* may present a resolution to the Governing Body for adoption authorizing the *code official* to abate the conditions causing the alleged violation at the end of 20 days after adoption of the resolution. The resolution shall provide that any costs of abatement incurred by the City shall be charged against the *person* in violation of *this code*. A copy of the resolution shall be served on the *person* in violation in one of the following ways:

- a. by personal service;
- b. by certified mail, postage prepaid; or
- c. in the event that the *person* in violation cannot be located, despite the exercise of reasonable diligence and after an affidavit to that effect has been filed with the City Clerk, by publishing the resolution once each week for two consecutive weeks in the official City newspaper and by posting a copy of the resolution on the property in violation.

9-608

Section 109.3 of the 2018 International Property Maintenance Code is hereby amended to read as follows:

[A] 109.3 Closing Streets. When necessary for public safety, the *code official* shall temporarily close *structures* and shall work with the Department of the City or other authority having jurisdiction to close sidewalks, streets, alleys, or other public ways/rights of way and places adjacent to unsafe *structures*, and prohibit the same from being utilized until the unsafe situation has been made safe.

9-609

Section 110 of the 2018 International Property Maintenance Code, in its entirety, is hereby deleted. In its place, the Governing Body enacts the following:

[A] 110.1 General. The *code official* shall have the authority, in accordance with K.S.A. 17-4759, as amended, to order the owner of any *premises* upon which is located any *structure*, which in the *code official's* judgment, after review, is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary, or otherwise unfit for human habitation or occupancy, and that it is unreasonable to repair the *structure*, to demolish and remove such *structure*; or, if such *structure* is capable of being made safe by repairs, to repair and to make safe and sanitary, or to board and hold for future repair or to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any *structure* for a period of more than one year, the *code official* shall order the owner to demolish and remove such *structure*, or board the same until future repair. Boarding the *structure* for future repair shall not extend beyond 180 days unless

approved by the *code official*.

[A] 110.1.1 Boarding Standards. All windows and doors boarded under this Article shall be boarded in such a manner as to prevent entry by unauthorized persons and, when such boarding exceeds 180 days, shall be painted to correspond to the color of the existing *structure*. Boarded windows and doors may remain unpainted beyond 180 days only if approved in writing by the *code official* for good cause shown.

[A] 110.2 Notices and Orders. All notices and orders related to the demolition of property shall be served in accordance with K.S.A. 17-4759, as amended.

[A] 110.3 Failure to Comply. If the owner fails to comply with the notice and order of demolition, then the City shall follow the procedures set forth at K.S.A. 17-4759 as amended, to enforce its notice and order.

9-610

Section 111 of the 2018 International Property Maintenance Code, in its entirety, is hereby deleted. In its place, the Governing Body enacts the following:

[A] 111.1 Notice of appeal. Any *person* aggrieved by a decision of the *code official* or a notice or order issued under *this code* shall have the right to appeal to the Building Code Board of Appeals, provided that a written notice of appeal is served on the *code official* within 14 days after the day the decision, notice, or order was personally served or placed in the mail. A notice of appeal shall be based on a claim that the true intent of *this code* or the rules legally adopted hereunder have been incorrectly interpreted, the provisions of *this code* do not fully apply, or the requirements of *this code* are satisfied by other means. The Notice of Appeal shall contain the following:

(1) A brief statement setting forth the legal interest of each of the appellants in the subject *building* or property that is the subject of the notice and order.

(2) A brief statement, in ordinary and concise language, of that specific order or action protested, together with any material facts claimed to support the contentions of the appellants. Only those matters or issues specifically listed by the appellants shall be considered in the hearing of the appeal.

(3) A brief statement, in ordinary and concise language, of the relief sought and the reasons why it is claimed that the protested order or action should be reversed, modified, or otherwise set aside.

(4) The signatures of all parties listed as appellants and their official mailing addresses.

[A] 111.2 Stays of enforcement. Appeal of a notice and order (other than an *imminent danger* notice and order) shall stay the enforcement of the notice and order until the appeal is heard and decided by the Building Code Board of Appeals.

[A] 111.3 Notice of hearing. After a Notice of Appeal has been served on the *code official*, the appeal shall be scheduled for a public hearing before the Building Code Board of Appeals as soon as practicable. Notice of the date, time, and place of the hearing shall be served on the appellant.

[A] 111.4 Open public hearing. All hearings before the Building Code Board of Appeals shall be open to the public. The appellant, the appellant's representative,

the code official and any *person* whose interests are affected shall be given an opportunity to be heard.

[A] 111.5 Quorum. The Building Code Board of Appeals can take no official action unless a quorum is present. For the purposes of this Article, a quorum shall consist of not less than a majority of the then-current membership of the Building Code Board of Appeals.

[A] 111.6 Board Decision. The Building Code Board of Appeals shall affirm, modify, or reverse the decision of the *code official* only by a concurring vote of a majority of the members voting on the issue.

[A] 116.1 Enforcement. After any notice or order of the *code official* or the Building Code Board of Appeals made pursuant to *this code* becomes final, no *person* to whom any such order is directed shall fail, neglect, or refuse to obey any such notice of order. It shall be an unlawful act for any such *person* to fail to comply with such notice or order. Each day of non-compliance shall constitute a separate offense.

[A] 111.7 Court Review. Any party aggrieved by a decision of the Building Code Board of Appeals shall have the right, under Kansas law, to bring an appeal in district court in accordance with K.S.A. 60-2101(d), as amended. Appeal to the district court shall not operate as an automatic stay of the enforcement of any notice and order.

9-611

Section 202 of the 2018 International Property Maintenance Code is hereby amended to read as follows:

ACCESSORY STRUCTURE. A secondary structure detached from the *principal structure*, but on the same *premises*, including but not limited to garages, sheds, barns, outbuildings, *portable on demand storage units*, and the like.

ACCESSORY USE. A use that is clearly incidental to, customarily found in connection with, and located on the same *lot* as the *principal use*, to which it is related.

ALLEY. A public or private way not more than 20-feet wide primarily designed to serve as a secondary means of access to an abutting property and located at the rear or side *lot line* of a *premises*.

ANCHORED. Secured in a manner that provides positive connection.

[A] APPROVED. Acceptable to the *code official*.

BASEMENT. That portion of a *building*, in which the finished surface of the floor, next above, is less than 6 feet above grade.

BATHROOM. A room containing plumbing fixtures, including a bathtub or shower.

BEDROOM. Any room or space used or intended to be used for sleeping purposes in either a dwelling or *sleeping unit*.

BUILDING. Any *structure* having a roof supported by columns or walls, used or intended to be used for the shelter or enclosure of persons, animals, or property.

BUILDING LINE. The line of an exterior *building* wall of a *principal building* or an *accessory structure* located upon a *lot* that is extended to the front, side, and rear *lot lines* of the *lot*.

BULKY WASTE. Items of solid waste that are too large or too heavy to be placed in a City issued Roll-out Cart, in a trash dumpster, or in any other type of container meeting criteria established by the Director of Municipal Services and Operations, which include boxes, household appliances, furniture, mattresses, plumbing fixtures, playground equipment, yard appliances and equipment, buckets and similar materials, but does not include vehicle major component parts, hazardous waste, demolition and construction waste, or *tree waste*.

CODE (or THIS CODE). The Property Maintenance Code of the City of Lawrence, Kansas.

[A] CODE OFFICIAL. The official who is charged with the administration and enforcement of *this code*, or any duly authorized representative.

CONDEMN. To adjudge unfit for *occupancy*.

COST OF SUCH DEMOLITION OR EMERGENCY REPAIRS. The costs shall include the actual costs of the demolition or repair of the structure less revenues obtained if salvage was conducted prior to demolition or repair. Costs shall include, but not be limited to, expenses incurred or necessitated related to demolition or emergency repairs, such as asbestos survey and abatement if necessary; costs of inspectors, testing agencies or experts retained relative to the demolition or emergency repairs; costs of testing; surveys for other materials that are controlled or regulated from being dumped in a landfill; title searches; mailing(s); postings; recording; and attorney fees expended for recovering of the cost of emergency repairs or to obtain or enforce an order of demolition made by a *code official*, the governing body or board of appeals.

DETACHED. When a structural element is physically disconnected from another and that connection is necessary to provide a positive connection.

DETERIORATION. To weaken, disintegrate, corrode, rust or decay and lose effectiveness.

DRIVEWAY. A private drive or way providing access for *vehicles* to a single *lot* or facility that is surfaced in accordance with the surfacing requirements established at Section 20-913(e) of the City Code, as amended.

[BG] DWELLING UNIT. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

[Z] EASEMENT. That portion of land or property reserved for present or future use by a *person* or agency other than the legal fee *owner(s)* of the property. The *easement* shall be permitted to be for use under, on or above a said *lot* or *lots*.

EQUIPMENT SUPPORT. Those structural members or assemblies of members or manufactured elements, including braces, frames, lugs, snuggers, hangers or saddles, that transmit gravity load, lateral load and operating load between the equipment and the *structure*.

EXTERIOR PROPERTY. The open space on the *premises* and on adjoining property under the control of *owners* or *operators* of such *premises*.

EXTERIOR STRUCTURE. The exterior of any *structure* that is exposed to the weather or subject to and in contact with the elements, including, but not limited to sidings, facings, veneers, masonry, roofs, foundations, porches, decks, balconies, screens, shutters, windows, doors, signs, and the like.

FRONT YARD. A space extending the full width of a *lot* between any *principal building* and the front *lot line* and measured perpendicular to the *building* at the closest point to the front *lot line*.

GARBAGE. The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

GOVERNING BODY. The City Commission of the City of Lawrence, Kansas.

GRADE. The finished ground level adjoining the *building* at an exterior wall.

[BE] GUARD. A *building* component or a system of *building* components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

[BG] HABITABLE SPACE. Space in a *structure* for living, sleeping, eating or cooking. *Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas* are not considered *habitable spaces*.

HEAVY EQUIPMENT. A machine or *vehicle* that may or may not be a *motor vehicle*, which is often designed to execute earth moving and/or construction tasks. Such equipment is also commonly referred to as heavy machines, heavy trucks, construction equipment, engineering equipment, heavy vehicles or heavy hydraulics. Examples include but are not limited to skid steers, track hoes, back hoes, fork lifts, boom lifts, and the like.

HISTORIC BUILDING. Any *building* or *structure* that is one or more of the following:

- (1) Listed or certified as eligible for listing, by the State Historic Preservation Officer or the Keeper of the National Register of Historic Places, in the National Register of Historic Places;
- (2) Designated as historic under an applicable state or local law; or
- (3) Certified as a contributing resource within a National Register or state or locally designated historic district.

HOUSEKEEPING UNIT. A room or group of rooms forming a single *habitable space* equipped and intended to be used for living, sleeping, cooking and eating which does not contain, within such a unit, a toilet, lavatory and bathtub or shower.

IMMINENT DANGER. A condition which could cause serious or life-threatening injury or death at any time.

INFESTATION. The presence, within or contiguous to a *structure* or *premises*, of insects, bed bugs, rats, vermin, or other pests.

INOPERABLE VEHICLE. A condition of a vehicle being junked, wrecked, wholly or partially dismantled, discarded, abandoned, or unable to perform the functions or purposes for which it was originally constructed; or the absence of a current valid registration plate upon a motor vehicle permitting that motor vehicle to be operated on the public streets and highways of the State of Kansas; or the placement of a vehicle or parts thereof upon jacks, blocks, chains, or other supports.

[A] LABELED. Equipment, materials or products to which have been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, *approved* agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-*labeled* items and whose labeling indicates either that the equipment, material or product meets identified standards or has been tested and found suitable for a specified purpose.

LAWN AND YARD EQUIPMENT. A machine or tool that is designed to execute the mowing and trimming of grass and weeds or the trimming of trees or other machines required for the general maintenance of a *premises*. Examples include, but are not limited to blowers, chainsaws, push mowers, riding mowers, snow blowers, tillers, trimmers (weed eaters), and the like.

LET FOR OCCUPANCY (or LET). To permit, provide or offer possession or occupancy of a dwelling, *dwelling unit*, *rooming unit*, *building*, *premises* or *structure* by a *person* who is or is not the legal *owner* of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

LOT. A contiguous parcel or tract of land located within a single block fronting a dedicated *public way/right of way* that is occupied or utilized, or designated to be occupied, developed, or utilized.

LOT LINE. The boundary of a *lot*.

MOTOR VEHICLE. A *vehicle* propelled by power, other than muscular power, designed to travel along the ground by use of wheels, treads, runners, or slides and to transport persons or property, or to pull machinery. It includes, without limitation, automobiles, trucks and motorcycles, but does not include motorized bicycles, motorized wheelchairs, *recreation vehicles*, or *heavy equipment*.

NEGLECT. The lack of proper maintenance for a *building* or *structure*.

[A] OCCUPANCY. The purpose for which a *building* or portion thereof is utilized or occupied.

OCCUPANT. Any individual living or sleeping *in a building*, or having possession of a space within a *building*.

OPENABLE AREA. That part of a window, skylight or door which is available for unobstructed *ventilation* and which opens directly to the outdoors.

OPERATOR. Any *person* who has charge, care, or control of a *building*, *structure*, or *premises* that is let or offered for *occupancy*.

OUTDOOR FURNITURE. Weather-resistant furniture that is designed and manufactured for outdoor use.

[A] OWNER. Any *person*, agent, *operator*, firm, or corporation having legal or equitable interest in the property; or recorded in the official records of the state, county, or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such *person*, and the executor or administrator of the estate of such *person* if ordered to take possession of real property by a court.

PARKED/PARKING. The temporary location of *motor vehicles* (except for *inoperable vehicles*), boats, *trailers*, and *recreation vehicles* for not more than 7 consecutive days (168 hours).

PARKING AREA. An area devoted to off-street parking or storing of *vehicles* on any one *lot* or parcel of land for public or private use that is surfaced in accordance to the surfacing requirements established at Section 20-913(e) of the City Code, as amended.

PERSON. Any natural *person*, business association, or business entity, including but not limited to a corporation, a partnership, a limited liability company, a sole proprietorship, and the like.

PEST ELIMINATION. The control and elimination of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food or water; by other *approved pest elimination* methods.

PORCH (ENCLOSED). A *structure* adjoining an entrance to a *building* that is fully enclosed by permanent walls, windows, screens, or other similar material, and that cannot be accessed from the outside except through a door that is capable of being locked.

PORCH (UNENCLOSED). A *structure* adjoining an entrance to a *building* that is not fully enclosed by permanent walls, windows, screens, or other similar material.

PORTABLE ON DEMAND STORAGE UNIT (or PODS). A steel-framed, water-resistant container designed for the secure storage of items.

[A] PREMISES. A *lot*, plot or parcel of land, or *easement* or *public way*, including any *structures* thereon.

PRINCIPAL BUILDING. A *building* in which the *principal* use of a *premises* is conducted. In a residential district, any *dwelling unit* shall be deemed to be the *principal building* on the *premises* on which the same is located.

PRINCIPAL USE. The primary purpose for which land or a *building* is utilized. The main use of the land or *building* is distinguished from a secondary or *accessory use*.

[A] PUBLIC WAY/RIGHT OF WAY. Any area of real property in which the City has a right-of-way interest, obtained either through acquisition or dedication. It shall include the area on, below, or above any present and future street, alley, avenue, road, highway, parkway, boulevard, or bridge, or other public way.

REAR YARD. A space extending the full width of a *lot* between any *principal building* and the rear *lot line* and measured perpendicular to the *building* at the closest point to the rear *lot line*.

RECREATION VEHICLE. A motorized, self-propelled *vehicle* or a *vehicle* pushed, towed, propelled by wind, or carried by a motorized, self-propelled *vehicle* that may be described as follows:

- (1) It is designed to have temporary living quarters for recreation and camping;
- (2) It is in all-terrain vehicle or a specialized off-road racing or competition vehicle that is not used for day-to-day transportation; or
- (3) It is a boat, canoe, kayak, or personal watercraft on a trailer.

RECREATION VEHICLE (LARGE). A recreation vehicle with a body length of more than 20 feet or a height of more than 8 feet. The height is measured from the parking surface to the highest point of the recreation vehicle.

RECREATION VEHICLE (SMALL). A recreation vehicle with a maximum body length of 20 feet and a maximum height of 8 feet. The height is measured from the parking surface to the highest point of the recreation vehicle.

RESIDENTIAL LOT. A *lot* that is located within a *zoning district* that permits the residential use group of Household Living or Group Living, as those residential uses are established at Section 20-402 (Residential District Use Table) of the City Code, as amended, or a *lot* that has a *dwelling unit* located upon it and for which the *dwelling unit* is the *principal use* of the *lot*.

ROOMING HOUSE. A *building* arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one or two-family dwelling.

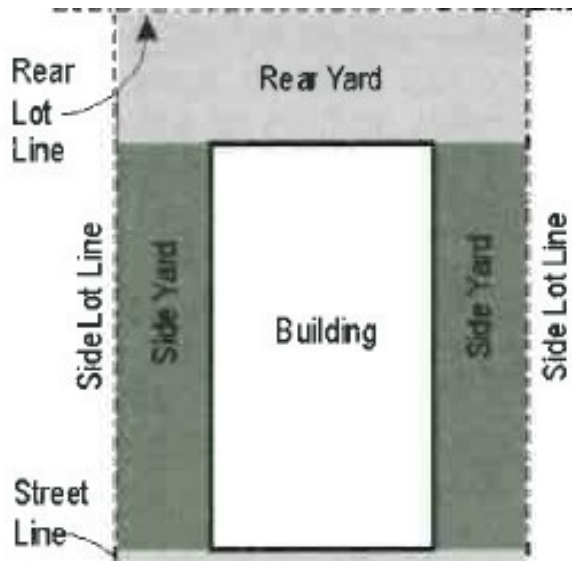
ROOMING UNIT. Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

RUBBISH. Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, *yard* trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

SALVAGE MATERIALS. Materials or parts, having some value, that are obtained from the disassembly of motor vehicles, vehicles, various kinds of machinery, mechanical appliances or equipment, and/or the demolition of *buildings* or *structures*.

SETBACK. The minimum horizontal distance by which any *building* or *structure* must be separated from a street *right-of-way* or *lot line*.

SIDE YARD. A space lying between the side line of the *lot* and the nearest line of the *principal building* and extending from the *front yard* to the *rear yard* or, in the absence of either of such *front yard* or *rear yard*, to the front or rear *lot lines*. *Side yard* widths shall be measured perpendicular to the side *lot lines* of the *lot*.



SIDE YARD (EXTERIOR). A space lying between the exterior side line of the *lot* abutting a *public way/right of way* and the nearest line of the *principal building* and extending from the *front yard* to the *rear yard* or, in the absence of either of such *front yard* or *rear yard*, to the front or rear *lot lines*. *Side yard* widths shall be measured perpendicular to the side *lot lines* of the *lot*.

SIDE YARD (INTERIOR). A space lying between the interior side line of the *lot* abutting a *lot* and the nearest line of the *principal building* and extending from the *front yard* to the *rear yard* or, in the absence of either of such *front yard* or *rear yard*, to the front or rear *lot lines*. *Side yard* widths shall be measured perpendicular to the side *lot lines* of the *lot*.

[BG] SLEEPING UNIT. A room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen

facilities, but not both. Such rooms and spaces that are also part of a *dwelling unit* are not *sleeping units*.

STORED (or STORAGE). The keeping, storing, placing, or locating, on *exterior property* on any *premises*, for more than 7 consecutive days (168 hours), of goods, products, tools, machinery, equipment, *vehicles*, *trailers*, or other similar items that are not allowed as a *principal use* or an *accessory use* of the *premises* or property under Chapter 20 of the City Code, as amended.

STRICT LIABILITY OFFENSE. An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited, or failed to do an act which the defendant was legally required to do.

[A] STRUCTURE. That which is built or constructed, or a portion thereof.

SWIMMING POOL. Any *structure*, intended for swimming, recreational bathing, or washing, that contains water over 24 inches (610 mm) in depth. Swimming pools include, but are not limited to in-ground, above-ground, and on-ground pools, hot tubs, spas, and fixed in-place wading pools.

TARPAULIN (or TARP). A heavy-duty, waterproof covering that is used to protect exposed exterior objects or areas.

TENANT. A *person*, corporation, partnership or group, whether or not the legal *owner* of record, occupying a building or portion thereof as a unit.

TOILET ROOM. A room containing a water closet or urinal but not a bathtub or shower.

TRAILER. An enclosed or open *vehicle*, without motorized or self-propelled power, designed to be drawn by a *motor vehicle* to transport items.

TRAILER (LARGE): An open or enclosed *trailer* with a body length of more 20 feet or a height of more than 6 feet. The height is measured from the parking surface to the highest point of the *trailer*.

TRAILER (SMALL). An open or enclosed *trailer* with a maximum body length of 20 feet and a maximum height of 6 feet. The height is measured from the parking surface to the highest point of the *trailer*.

TRASH RECEPTACLE. A City issued Roll-out Cart or other *trash receptacle*, whether used to hold garbage, rubbish, yard waste, or recyclable materials, but excluding paper bags, shopping bags, cardboard boxes, paper boxes, pasteboard boxes, fiberboard boxes, plastic containers, barrels, wicker baskets or the like.

TREE WASTE. All tree or shrub waste, including tree stumps removed from the ground, but not including the following: leaves; tree trimmings or branches tied in bundles not more than 18 inches in diameter and not more than 5 feet long placed beside a *trash receptacle(s)* for collection in accordance with City Code Chapter 9, Article 4, or Section 308.4 of *this code*; vegetation pruning or wood chips placed in a *trash receptacle*; or firewood stacked in accordance with Section 302.10.

ULTIMATE DEFORMATION. The deformation at which failure occurs and which shall be deemed to occur if the sustainable load reduces to 80 percent or less of the maximum strength.

UPHOLSTERED FURNITURE. Furniture that is designed only for indoor use and is manufactured with fabric coverings, cushioning, stuffing, springs or similar like materials.

URBAN AGRICULTURE. The growing, processing, and distribution of plant and animal products – by and for the local community – within an urban environment. *Urban agriculture* includes, but is not limited to: aquaculture, horticulture, permaculture, hydroculture, agroforestry, beekeeping, gardening, animal husbandry, and similar activities. Complementary activities associated with urban agriculture include the distribution of food, the collection and reuse of food waste and rainwater, and public outreach activities such as education and employment. *Urban agriculture* does not include such commercial activities, such as commercial dog kennels, dog breeding facilities, livestock sales, or other similar commercial endeavors.

URBAN AGRICULTURE IMPLEMENTS, EQUIPMENT, OR MATERIALS. Tools, movable structures, and soil amendments used for small-scale, primarily manual agricultural production. Typical items include, but are not limited to: non-powered implements such as buckets, baskets, compost bins or barrels, fencing, ladders, landscape stones, low tunnels, rakes, shovels, trellising, rain barrels, and the like; or, powered implements such as chain saws, chipper-shredders, mowers, roto-tillers, tractors and materials such as mulch, compost, hay or straw bales, top soil, and the like.

URBAN FARM. An *urban agriculture* use that is operated primarily for commercial purposes. An *urban farm* is distinguished from other *urban agriculture* uses by scale.

(1) An *urban farm* may have a larger retail sales area and/or more agricultural animals than permitted for crop agriculture and/or small and large animal agriculture as defined within Chapter 20 of the City Code, as amended.

(2) An *urban farm* may include other uses such as an educational/training component and/or agricultural processing as defined by Chapter 20 of the City Code, as amended.

VEHICLE. A means of conveyance used to transport passengers or things by land, water, or air, including *motor vehicles*, *recreation vehicles*, *trailers*, tractors, boats and any vehicle drawn, propelled, or driven by any kind of power, excluding muscular power.

VENTILATION. The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

WORKMANLIKE. Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged, and without marring adjacent work.

[Z] YARD. An open space, located on the same *lot* with a *building*, unoccupied and unobstructed from the ground up.

ZONING DISTRICT. A portion of the territory of the City of Lawrence within which certain uniform regulations and requirements or various combinations thereof apply

under the provisions of the City's Land Development Code, codified as amended at Chapter 20 of the City Code.

9-612

Sections 302.2 and 302.3 of the 2018 International Property Maintenance Code are hereby amended to read as follows:

302.2 Grading and drainage. All *premises* shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon. Storm water must be diverted away from any *structure* and said diversion of storm water shall not constitute a hazard or nuisance to any adjacent property.

Exceptions:

1. *Approved* retention areas and reservoirs.

2. Landscaped berms that are landscaped with living vegetation.

302.3 Sidewalks and driveways. All sidewalks, walkways, stairs, driveways, parking lots, parking spaces and similar areas, including those that are located in public ways/rights of way, shall be kept in a proper state of repair, and maintained free from hazardous conditions.

9-613

Section 302.4 of the 2015 International Property Maintenance Code is hereby deleted.

9-614

The 2018 International Property Maintenance Code is hereby amended by adding Section 302.7.1, which reads as follows:

302.7.1 Fences. All fences shall comply with Chapter 16, Article 6 of the City Code, and amendments thereto. All fences shall be maintained in a plumb manner and in sound condition, free of damage, breaks, or missing structural members. Areas that are leaning, buckling, sagging, or deteriorating shall be repaired or replaced with a material compatible with the undamaged portions of the fence. Where fencing has been previously painted and there are areas of chipping, peeling, scaling or missing paint equal to or greater than 20 percent of the fence surface, then such surface shall be repainted or shall be stripped of all paint.

9-615

Section 302.8 of the 2018 International Property Maintenance Code is hereby deleted. In its place, the Governing Body enacts the following:

302.8 Inoperable Vehicles. Except for *premises* that are approved for a use that permits the *parking or storage of inoperable vehicles*, as regulated by the City's Land Development Code, codified as amended at Chapter 20 of the City Code, no *inoperable vehicle*, unlicensed *motor vehicle*, or *recreation vehicle* shall be parked, kept, or stored on *exterior property*, and no *vehicle*, *recreation vehicle*, or *trailer* shall, at any time, be in a state of disassembly, disrepair, or in the process of being stripped or dismantled on *exterior property*.

Exception: A *vehicle* or *trailer* of any type is permitted to undergo major overhaul, including engine work, body work or painting, provided that such work is performed inside a *structure* or similarly enclosed area designed for such purposes and the property's *zoning district* allows for such work to be performed as regulated by Chapter 20, Article 4 of the City Code, as amended.

Section 302.9 of the 2018 International Property Maintenance Code is hereby deleted in its entirety. In its place, the Governing Body enacts the following:

302.9 Required off-street parking spaces. Required off-street *parking* spaces for any *premises* as established at Sections 20-902 and 20-903 (Off-Street Parking Schedule, A & B) of Chapter 20 of the City Code, as amended, shall not be used for the *storage* of *vehicles, recreation vehicles, or trailers*, or components thereof. There is no limit to the number of *vehicles, recreation vehicles, and/or trailers stored* on a *premises* within an enclosed garage, enclosed *accessory structure*, or similar enclosed *building*, provided that the *vehicles, recreation vehicles and/or trailers* are not *stored* on any off-street parking space required by the City Code.

302.9.1 Motor vehicle parking. *Motor vehicles* are not permitted to be parked or stored within a *front yard, side yard, or rear yard*, unless located on an approved *driveway* constructed in accordance with the City Code, as amended.

302.9.2 Motor vehicle size limit on a residential lot. Off-street *driveways and parking areas* shall only be used by *motor vehicles*, with a maximum length of 24 feet or a maximum height of 9 feet, or by *recreation vehicles and trailers* and shall meet the requirements established at Sections 302.9.3 through 302.9.8, inclusive, of *this code*.

302.9.3 Vehicles, recreation vehicles and trailers parked and stored on a residential lot. All *vehicles, recreation vehicles, and trailers* may only be *parked or stored* on a *residential lot*, upon which a *principal building* is located, and shall meet the requirements established at Sections 302.9.3 through 302.9.11, inclusive, of *this code*.

302.9.4 Recreation vehicles and trailers parked and stored on a residential lot where a detached dwelling or duplex use is established. A maximum of 3 *recreation vehicles and trailers*, in any combination thereof, with no more than one *large recreation vehicle or large trailer*, may be *parked or stored on exterior property* on a *premises*, where a *detached dwelling or duplex use* is established. Unenclosed *trailers*, 10 feet or less in length and 6 feet or less in height, not to exceed two in number, do not count toward the maximum number of *recreation vehicles or trailers*, or combination thereof, when *stored* in a *rear yard*. *Recreation vehicles and trailers* shall, when parked or stored within a *rear yard, side yard* (interior and exterior), or *front yard*, where a *detached dwelling or duplex use* is established, meet the requirements of Sections 302.9.5 through 302.9.10, inclusive, of *this code*.

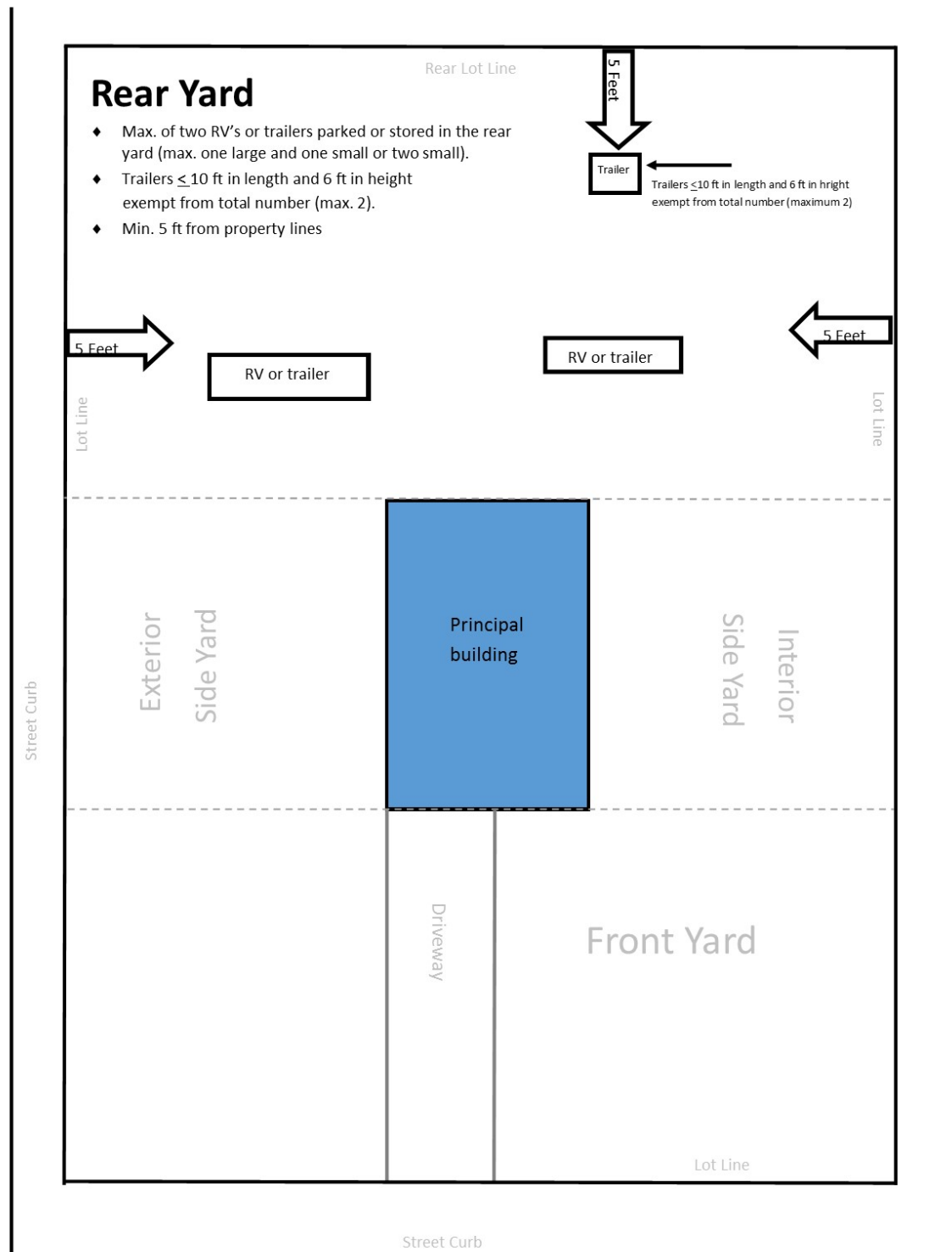
302.9.5 Parked and stored within a rear yard. *Recreation vehicles and trailers* may be *parked or stored* within a *rear yard*, as shown in Diagram 1, without being located on an *approved driveway or parking area*. A maximum of two *recreation vehicles and/or trailers*, in any combination thereof may be *parked or stored* within a *rear yard* and shall have a minimum *setback* of 5 feet from the side and rear *lot lines*.

Exceptions: Corner lots with a rear *lot line* that abuts a side *lot line* of another *residential lot*, as shown in Diagram 3, shall comply with either of the following:

1. When *parked or stored* on an *approved driveway or parking area*, the *recreation vehicle or trailer* shall be at least 18 feet from the face of the street curb, or, in the absence of a curb, the pavement edge of the street, and shall not extend over a sidewalk; or

2. When *parked* or *stored* outside an approved *driveway* or *parking area*, the *recreation vehicle* or *trailer* shall be located behind the required *front yard setback* of the adjacent *premises*, pursuant to the *setback* requirements established at Section 20-601 (Density and Dimensional Standards) of the City Code, as amended.

Diagram 1: Rear Yard Abutting Adjacent Rear Yard (Corner or Interior Lot)



302.9.6 Parked and Stored within a rear yard adjacent to an alley. When a rear yard is adjacent to an alley, the rear yard setback does not apply. On lots with an

exterior side yard, the *side yard setback* shall be 10 feet from the exterior side *lot line*. On lots with an *interior side yard*, the *setback* shall be 5 feet, as shown in Diagram 2.

Diagram 2: Rear Yard Abutting an Alley

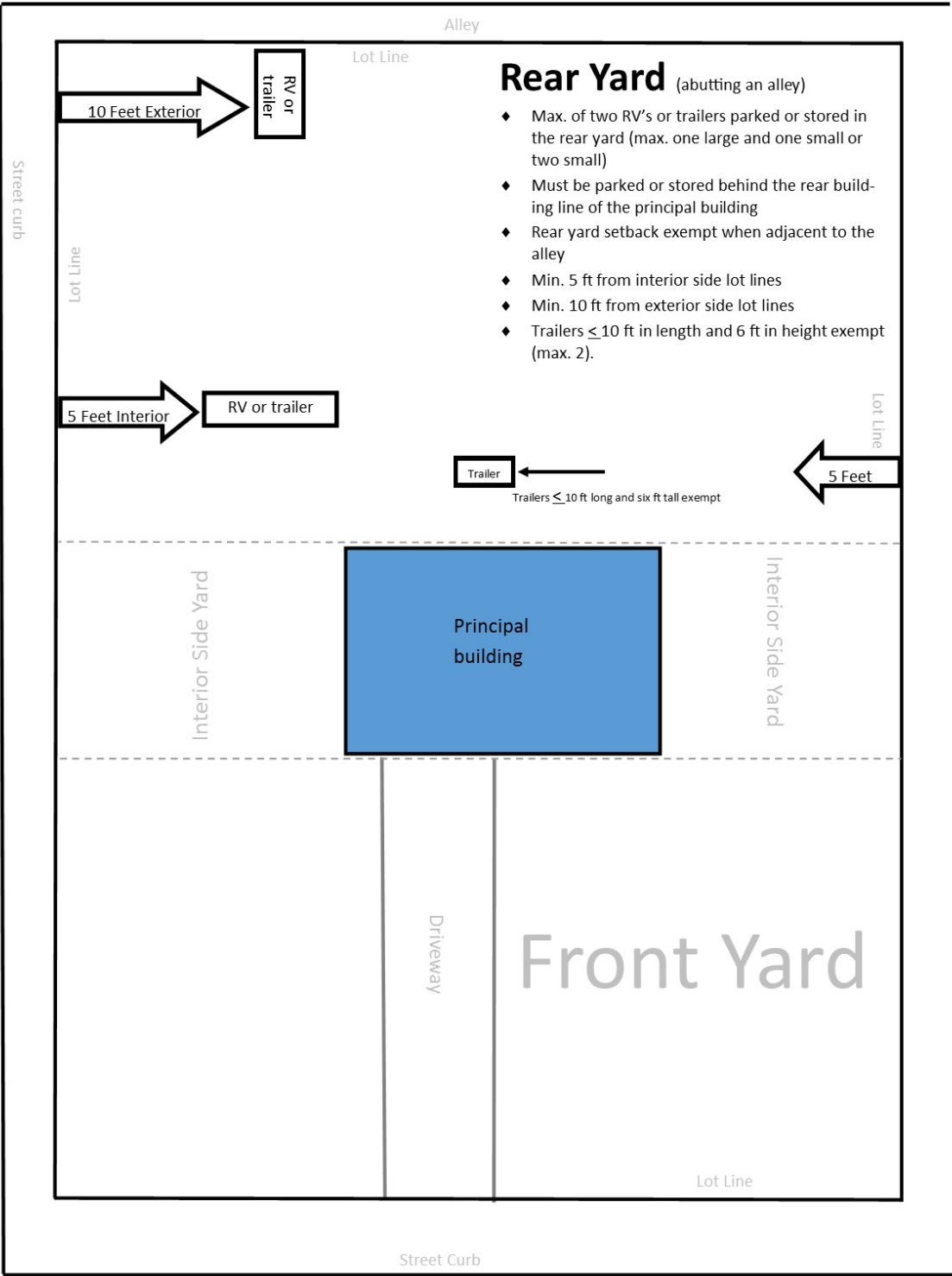
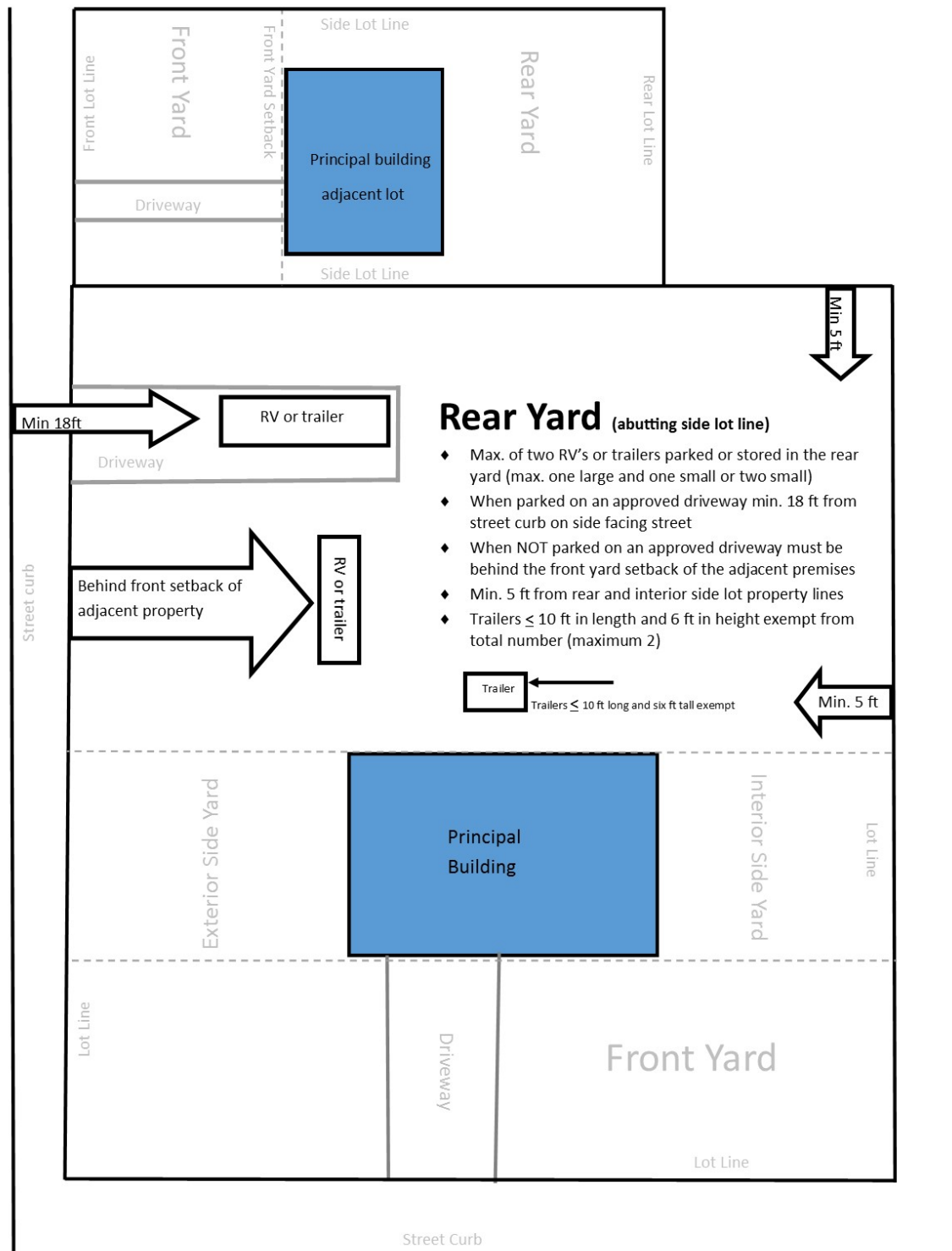


Diagram 3: Rear Yard Abutting Side Lot Line of Adjacent Residential Lot



302.9.7 *Parked and stored within an interior side yard.* *Recreation vehicles and trailers may be parked or stored outside an approved driveway or parking area, as shown in Diagram 4, but must comply with the following:*

- a. They shall be parked or stored within 10 feet of the principal building or an accessory structure;*
- b. They shall be parked or stored parallel to the principal building wall or the accessory structure wall that faces the interior side yard lot line; and*
- c. They shall be parked or stored at least 2 feet from the side yard lot line.*

302.9.8 *Parked and stored within an exterior side yard.* *Recreation vehicles and trailers shall be parked or stored on an approved driveway, constructed with materials in accordance with the City Code, as shown in Diagram 4, and shall comply with the following:*

- a. They shall be located a minimum of 18 feet from the back of the street curb, or, in the absence of a curb, from the pavement edge of the street, when parked or stored on an approved driveway, and shall not extend over a sidewalk; and*
- b. They shall not create an intersection visibility obstruction between a height of 3 feet and 10 feet, within the triangular area formed by an imaginary line starting at the point of intersection of corner lot lines and extending 25 feet from their point of intersection, as identified in Diagram 5.*

Diagram 4: Interior and Exterior Side Yard

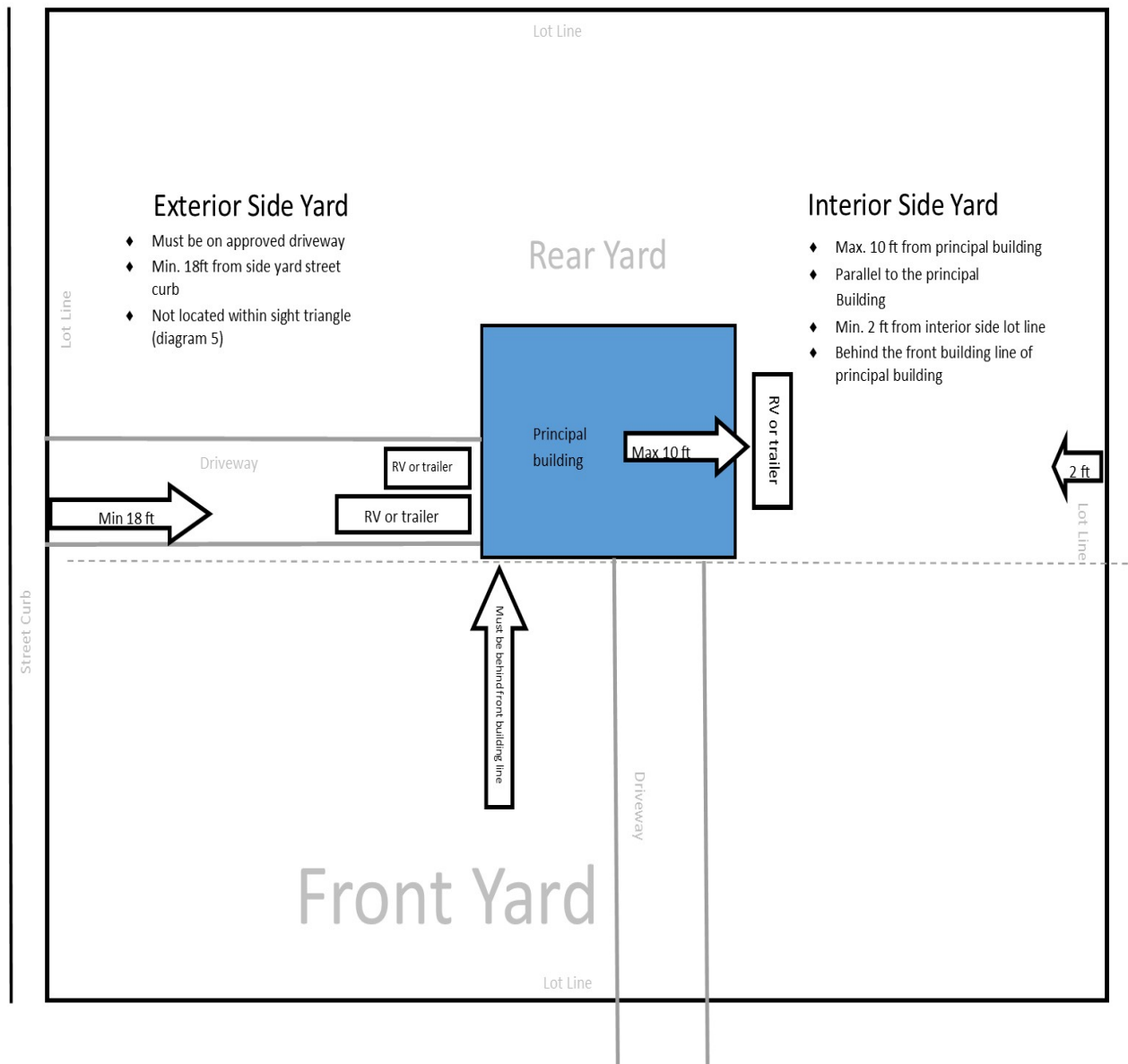
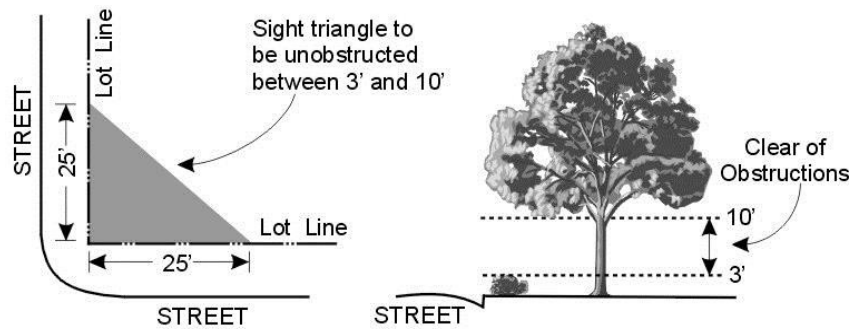


Diagram 5: Sight Triangle

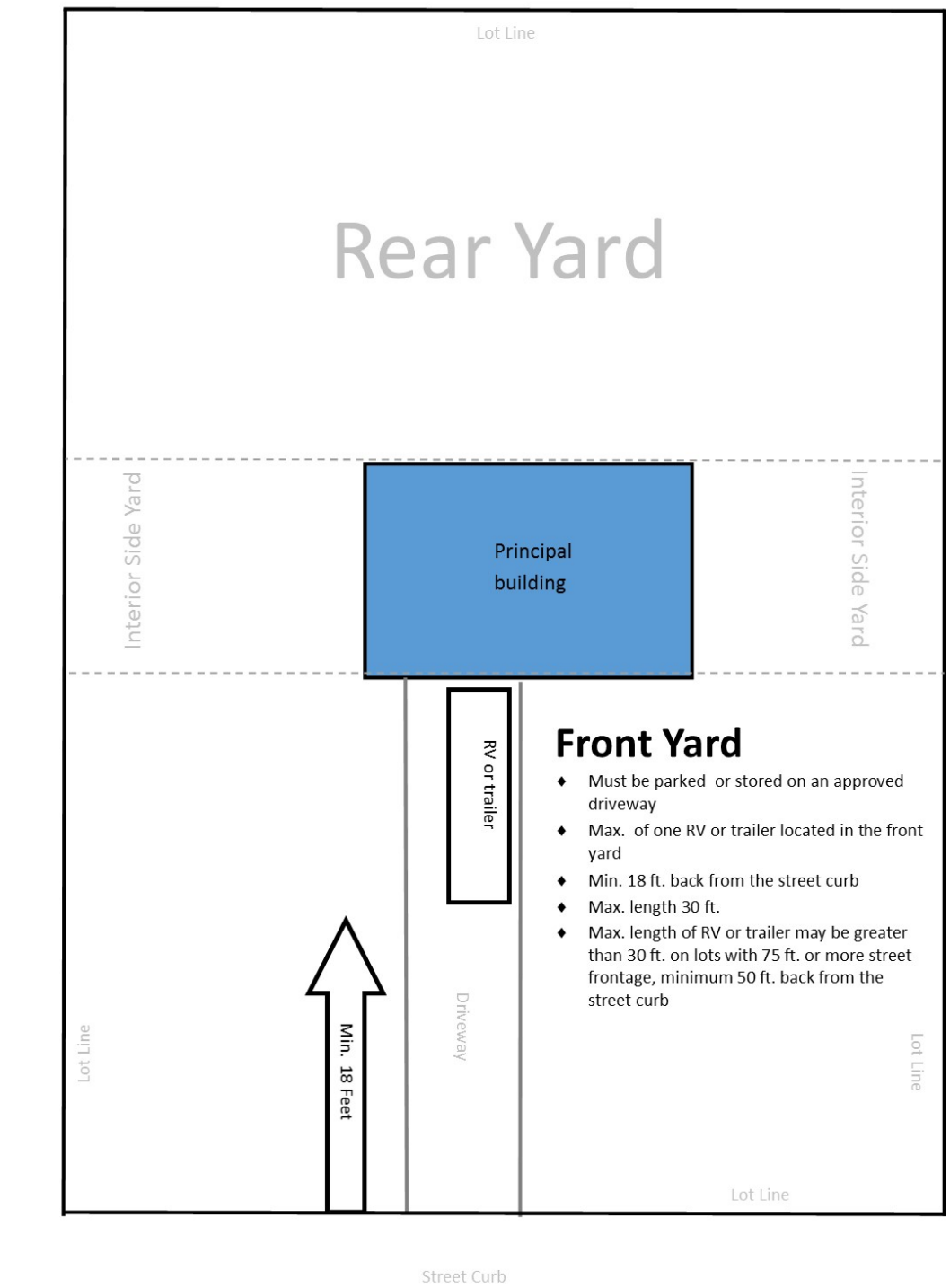


302.9.9 Parked and stored within a front yard. Only one *recreation vehicle* or one *trailer* may be *parked* or *stored* on an *approved driveway*, constructed with materials in accordance with the City Code, as shown on Diagram 6, and shall comply with the following:

- a. The body of the *recreation vehicle* or *trailer* shall be at least 18 feet from the face of the street curb, or, in the absence of a curb, the pavement edge of the street, and shall not extend over a sidewalk; and
- b. The body of the *recreation vehicle* or *trailer* shall not exceed 30 feet in length.

Exception: *Recreation vehicles* and *trailers* may exceed 30 feet in length when *parked* or *stored* on *lots* that have a minimum of 75 feet of *front yard* street frontage, are greater than a half-acre in *lot* size, and the body of the *recreation vehicle* or *trailer* is located at least 50 feet from the face of the street curb or, in the absence of a curb, from the pavement edge of the street.

Diagram 6: Front Yard (Any Lot)



302.9.10 Recreation vehicles and trailers parked and stored where a multi-dwelling residential or non-residential use is established. All *vehicles, recreation vehicles, and trailers* must be *parked or stored* on an *approved driveway or parking area*, constructed with materials in accordance with Section 20-913(e) of the City Code, as amended, unless such *premises* has an approved site plan that permits an alternative surface material. For *premises* with an approved site plan, the required number of parking spaces shall be maintained in accordance to the parking specifications identified on the site plan.

302.9.11 Prohibited use of motor vehicles and recreation vehicles parked or stored on premises. *Motor vehicles and Recreation vehicles* shall not be used for living or sleeping purposes and shall not be connected to sewer, water, or electricity utilities, except for cleaning or preparation purposes, and shall not be used for the storage of goods, materials, or equipment, other than those items considered to be essential for its use as a *motor vehicle or recreation vehicle*.

Exception: *Premises* that are located in a *zoning district* that permits transient accommodation use (campground) as set forth in Section 20-403 (Non-Residential District Use Table) of the City Code, as amended.

302.9.12 Heavy equipment prohibited to be parked or stored on a premises. *Heavy equipment* shall not be *parked or stored* on any *residential lot* unless such equipment is being actively used for construction work upon the *premises*. *Heavy equipment* may be *parked or stored* on a *non-residential lot* if the *zoning district* for the *premises* for which the *heavy equipment* is located permits such use and such parking or storing has been approved through an *approved site plan*.

9-617

The 2018 International Property Maintenance Code is hereby amended by adding Sections 302.10, 302.11, 302.12, 302.13, 302.14, 302.15 and 302.16 which read as follows:

302.10 Exterior Property storage. No *person* shall allow on any *yard, unenclosed porch, deck, balcony, unenclosed trailer, or any other exterior property area* of a *premises*, the *storage or accumulation* of items consisting of but not limited to the following: building/construction materials, *bulky waste garbage, heavy equipment, household appliances, lawn and yard equipment, rubbish, salvage materials, tree waste, vehicle parts, or similar items* that are not manufactured or intended for storage or use within a *yard, unenclosed porch, deck or balcony*, unless the *zoning district* for the *premises* permits *stored items* in accordance with the City's Land Development Code, Chapter 20 of the City Code, as amended.

Exceptions:

1. Firewood that is neatly stacked, provided that such storage shall not be located within the *front yard*, as that term is defined in this Chapter.
2. Building/construction materials that are neatly stacked and are actively being used to improve the property on which they are located.
3. Landscape materials such as edging stones, patio pavers, bricks, mounded or bagged soil, mulch, gravel, rock or similar natural materials that are neatly stacked and are actively being used to improve the property on which they are located.
4. *Lawn and yard equipment* that is in good working condition, used solely for

personal residential use and located upon *residential lots*, where a detached dwelling or duplex use is established, may be *stored* within an *interior side yard* or *rear yard*.

5. *Exterior storage* that is permitted as an *accessory use* to a *principal use* in specific non-residential *zoning districts* and that have an approved site plan for such use as required by Chapter 20 of the City Code.
6. *Urban agriculture implements, equipment or materials* that are being used in the day-to-day operation of a permitted crop or animal agriculture use may be located within the *exterior property* of a *premises*.

- a. *Urban agriculture implements, equipment or materials* that are not being used in the day-to-day operations shall be stored within the *side yard* or *rear yard*, as those terms are defined herein. Those items may not be stored within the *front yard* of the *principal building* or within the *street right of way*.
- b. Stored *urban agriculture implements, equipment or materials* shall be screened from view of adjacent properties or *right of way* with vegetation, fencing, walls, or a combination thereof; or shall be located within an enclosed *structure*.
- c. Alternative storage locations and screening may be approved for *urban agriculture implements, equipment or materials* with the special use permit for an *urban farm* as required per Section 20-551 of the City Code, as amended.

302.11 Furniture. It shall be unlawful for any *person* to allow on any *yard*, *unenclosed porch*, deck, balcony or other *exterior property* of any *premises*, furniture, other than *outdoor furniture*, as that term is defined in *this code*.

302.12 Upholstered furniture. It shall be unlawful for any *person* to allow on any *unenclosed porch*, deck, balcony, or other *exterior property* of any *premises*, *upholstered furniture*, including, but not limited to, upholstered chairs, upholstered couches, mattresses, or similar items. This section does not apply to *outdoor furniture* or to an *enclosed porch*, as those terms are defined in *this code*.

302.13 Trees, tree limbs and tree waste. No *person* shall allow in their yard any *tree waste*, or any dead or substantially dead tree (or dead or damaged tree limbs) that create a hazardous or unsafe condition.

302.14 Tarpaulin restricted exterior use. A *tarpaulin (tarp)* may only be used temporarily, which is typically not more than 30 consecutive days in duration unless otherwise *approved* by the *code official*. *Tarps* shall not be used for the covering of *vehicles* or the openings of roofs, garage doors, exterior doors, windows or other similar openings, and shall not be used as a screening element for *buildings* or *structures*, including, but not limited to porches, balconies, decks, fences, and the like. Exterior coverings that are specifically designed to cover *motor vehicles* and *recreation vehicles* are permitted and shall be maintained in good condition.

Exception: A *tarpaulin (tarp)* that is maintained in good condition may be used to cover firewood that is stored in accordance with Section 302.10.

302.15 Portable on demand storage unit where a detached dwelling or duplex

use is established. One *portable on demand storage unit (PODS)* with a maximum height of 8 feet and a maximum length of 16 feet may be located within the *front yard* on an *approved driveway or parking area* or within a *side yard* or a *rear yard* on a temporary basis, which is typically less than 30 consecutive days or less in duration unless *approved* by the *code official*. PODS used for longer than 30 consecutive days shall comply with the General Standards for *Accessory Structures* as identified in Section 20-533 of the City's Land Development Code.

302.16 Portable on demand storage unit where a multi-dwelling residential or non-residential use is established. *Portable on demand storage units (PODS)* of any size are permitted to be located on a *premises* as a short-term use, which is typically not more than 30 consecutive days in duration unless otherwise *approved* by the *code official*. PODS used for more than 30 consecutive days are considered to be an *accessory structure* that shall comply with the General Standards for *Accessory Structures* as established at Section 20-533 of the City Code, as amended, and shall, through site plan review and approval, comply with the following:

- a. PODS stored on *premises* are subject to the applicable Development Review Procedures identified at Section 20-1305 of the City Code, as amended.
- b. PODS located on *premises* that are located within a Commercial or Industrial Use Group, as classified in Sections 20-402 and 20-403 of the City Code, as amended, shall comply with the Community Design Manual as identified at Section 20-1305(a) of the City Code, as amended.

9-618

Sections 303.2 of the 2018 International Property Maintenance Code is hereby amended to read as follows:

Private swimming pools, hot tubs and spas, containing water more than 24 inches (610 mm) in depth shall be completely surrounded by a fence or barrier not less than 72 inches (1829 mm) in height above the finished ground level measured on the side of the barrier away from the pool. Openings in the fence or barrier shall not permit the passage of a 4-inch diameter (102 mm) sphere. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is less than 54 inches (1372 mm) above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from the open position of 6 inches (152 mm) from the gatepost. An existing pool enclosure shall not be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

Exception: Spas or hot tubs with a safety cover that complies with ASTM F1346 shall be exempt from the provisions of this section.

9-619

Sections 304.7, 304.13.2, and 304.14 of the 2018 International Property Maintenance Code are hereby amended to read as follows:

304.7 Roofs and drainage. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or *deterioration* in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions.

Exception: This section shall not apply to lawn sprinklers.

304.13.2 Openable windows. Every window, other than a fixed window, shall be easily openable.

304.14 Insect screens. Every screen door used for insect control shall have a self-closing device in good working order. A minimum of one window of every *habitable space* shall be supplied with an *approved* tightly fitting screen that effectively provides insect control.

9-620

Section 307 of the 2018 International Property Maintenance Code, in its entirety, is hereby deleted. In its place, the Governing Body enacts the following:

307.1 Handrails. All *buildings* and *structures* shall provide handrails in accordance with the building code under which they were constructed. For *buildings* and *structures* constructed during a time when no building code provisions relating to handrails were in effect, the following provision shall apply:

307.1.1 Handrails required. Every exterior and interior flight of stairs having more than 4 risers shall have a handrail on one side of the stairs. Handrails shall not be less than 30 inches (762 mm) in height or more than 42 inches (1067 mm) in height measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces.

307.2 Guardrails. All *buildings* and *structures* shall provide guardrails in accordance with the building code under which they were constructed. For *buildings* constructed during a time when no building code provision relating to guardrails were in effect, the following provision shall apply:

307.2.1 Guardrails required. Every open portion of a landing, balcony, porch, deck, ramp or other walking surface that is more than 30 inches (762 mm) above floor or grade below shall have guardrails. Every open portion of a stair that is greater than 42 inches (1067 mm) above floor or grade below shall have guardrails. Guardrails shall not be less than 30 inches (762 mm) in height above the floor of a landing, balcony, porch, deck, ramp or other walking surface.

307.2.2 Guardrail spacing. Every open portion of a landing, balcony, porch, deck, ramp or other walking surface that is more than 30 inches (762 mm) inches above the floor or grade below shall have guardrails that contain intermediate rails, balusters or other construction methods that are judged to be safe by the *code official*. Every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface that is greater than 42 inches (1067 mm) above floor or grade below shall have guardrails that contain intermediate rails, balusters or other construction methods that do not allow for the passage of a sphere 6 inches (153 mm) in diameter.

Exceptions:

1. Guardrails shall not be required where exempted by the adopted building code.
2. Where required guardrails, intermediate rails, balusters, or other constructions methods are missing in their entirety for a portion of a stair, landing, balcony, porch, deck, ramp, or other walking surface, the building components shall be installed in accordance with the adopted building code.
 2. Guardrails, intermediate rails, balusters, and other construction methods located on an open portion of a stair, landing, balcony, porch,

deck, ramp, or other walking surface less than 42 inches (1067 mm) above floor or grade below may be repaired to original condition if judged to be safe by the *code official*.

9-621 **Sections 308.2.1, 308.3.1, and 308.3.2 of the 2018 International Property Maintenance Code** are hereby deleted.

9-622 **Sections 308.2 and 308.3 of the 2018 International Property Maintenance Code** are hereby amended to read as follows:

308.2 Disposal of rubbish and bulky waste. Every *occupant* of a structure shall dispose of all *rubbish* and *bulky waste* in a clean and sanitary manner.

308.3 Disposal of garbage. Every *occupant* of a *structure* shall dispose of *garbage* in a clean and sanitary manner.

9-623 **The 2018 International Property Maintenance Code is hereby amended by adding Section 308.4**, which reads as follows:

308.4 Disposal of garbage, rubbish, and trash. It shall be unlawful for any *person* to:

- a. Fail to use the City roll-out trash cart, as required by Section 9-403 of the City Code, as amended, for the containment of garbage, refuse, or trash.
- b. Fail to clean-up or remove garbage, refuse, or trash scattered or spilled, whether caused by the condition of the City roll-out trash cart or other trash receptacle, animals, wind, or any other cause, before the arrival of the City's collection staff.
- c. Place the City roll-out trash cart or any other trash receptacle in the right of way or at the designated point of collection earlier than 7:00 a.m. on the day immediately preceding the scheduled day of collection.
- d. Fail to remove, within 24 hours after the City collection staff has left, the City roll-out trash cart or other trash receptacle, containing garbage, refuse, or trash, that was not collected because such packaging was not in compliance with Section 9-404 of the City Code, as amended.
- e. Store any City roll-out trash cart or other trash receptacle, except when lawfully placed for collection, in an exterior location that is more than 3 feet from the exterior wall of the principal building or accessory structure.
- f. Fail to store or secure, in locations where trash collection occurs in an alley, the City roll-out trash cart or other trash receptacle in a manner that reasonably prevents the scattering of the City roll-out trash cart or other trash receptacle and any garbage, refuse, or trash contained therein.

9-624 **Sections 309.3 and 309.4 of the 2018 International Property Maintenance Code** are hereby amended to read as follows:

309.3 Single occupant. The *occupant* of a detached dwelling unit or of a single-*tenant* nonresidential *structure* shall be responsible for pest elimination on the *premises* after 30 days of occupancy.

309.4 Multiple occupancy. The *owner* of a structure containing two or more

dwelling units, a multiple *occupancy*, a *rooming house*, or a nonresidential structure shall be responsible for pest elimination in the public or shared areas of the structure and all exterior areas of the *premises*. The *owner* of such structure shall be responsible for pest elimination in the interior of any *dwelling unit* where *infestation* is discovered within the first 30 days of a new tenancy.

9-625 **The 2018 International Property Maintenance Code is hereby amended by adding Section 309.6**, which reads as follows:

309.6 Bed bug infestation. The *code official* is hereby authorized to promulgate regulations governing the procedure for the extermination of bed bugs in the event of a bed bug infestation. Those regulations shall be posted on the City's website and shall otherwise be made available to all landlords within the City.

9-626 **Section 404.7 of the 2018 International Property Maintenance Code** is hereby deleted. In its place, the Governing Body enacts the following:

404.7 Food preparation. All spaces to be occupied for food preparation purposes shall contain suitable space and equipment to store, prepare, and serve food in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food waste and refuse, including facilities for temporary storage. Any kitchen stove or refrigerator supplied by the property *owner* shall be maintained in a safe working condition.

9-627 **Sections 602.2, 602.3, and 602.4 of the 2018 International Property Maintenance Code** are hereby amended to read as follows:

602.2 Residential occupancies. Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F (20°C) in all habitable rooms, *bathrooms*, and *toilet rooms*. Cooking appliances shall not be used, nor shall portable electric or unvented fuel-burning space heaters be used, as a means to provide required heating.

602.3 Heat supply. Every *owner* and *operator* of any *building* who rents, leases or lets one or more *dwelling units* or *sleeping units* on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat to maintain a temperature of not less than 68°F (20°C) in all habitable rooms, *bathrooms*, and *toilet rooms*.

602.4 Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat to maintain a temperature of not less than 65°F (18°C) during the period the spaces are occupied.

Exceptions:

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

9-628 **Section 605.2 of the 2018 International Property Maintenance Code** is hereby amended to read as follows:

605.2 Receptacles. Every *habitable space* in a dwelling shall contain at least two separate and remote receptacle outlets. All receptacle outlets shall have the

appropriate faceplate cover for the location. Every laundry area shall contain at least one grounded-type receptacle or a receptacle with a ground-fault circuit interrupter. Every bathroom shall contain not less than one receptacle, and all bathroom receptacles shall have ground fault circuit interrupter protection. All receptacles located within 6 feet (1829mm) of a water source shall be ground-fault circuit-interrupter protected.

Exceptions:

1. A single receptacle outlet serving power to a refrigerator that is located within 6 feet (1829 mm) of a water source shall not be required to be ground-fault circuit-interrupter protected.
2. A duplex receptacle outlet serving power to a refrigerator that is located within 6 feet (1829 mm) of a water source but is not readily accessible for other appliance use shall not be required to be ground-fault circuit-interrupter protected.

9-629

The 2018 International Property Maintenance Code is hereby amended by adding Sections 702.4.1, and 702.4.2, which read as follows:

702.4.1 Emergency egress for sleeping rooms in basements. Every sleeping room, located in a basement, shall have at least one operable emergency escape and rescue opening. Such openings shall have a minimum clear opening height and width of 22 inches in either dimension, with a total minimum net clear opening area of 5.0 square feet and shall have a sill height of not more than 48 inches, measured from the finished floor to the bottom of the clear opening.

Any sleeping room is considered to be in the basement when the finished surface of the floor next above is less than 6 feet above the finished grade, measured directly in front of the emergency and rescue opening of such sleeping room.

Exceptions:

1. Properly sized emergency escape and rescue openings with a sill height greater than 48 inches shall be equipped with a ladder permanently affixed to the interior wall directly beneath the opening. Ladders or rungs shall have an inside width of not less than 14 inches, shall project not less than 4 inches from the wall and shall be uniformly spaced between 10 and 14 inches on center vertically for the full height of the interior wall directly under the opening.
2. Same overall dimensional size replacement windows with a minimum clear opening height and width of not less than 22 inches in either dimension, with a total minimum net clear opening of not less than 5 square feet are permitted to be installed. Replacement emergency escape windows installed with a sill height greater than 48 inches shall be equipped with a ladder permanently affixed to the structure. Ladders or rungs shall have an inside width of not less than 14 inches, shall project not less than 4 inches from the wall and shall be spaced between 10 and 14 inches on center vertically for the full height of the interior wall directly under the opening.

702.4.2 Emergency egress for sleeping rooms more than two stories above grade. Buildings and structures are required to meet the code standards for emergency egress in place at the time of construction. For those existing structures that contain a sleeping room more than two stories above grade, for which no building permit exists, or for which no building permit can be found, the following

conditions shall be met:

- a. A safe, continuous, and unobstructed interior path of travel shall be provided from any point in the building or structure to the public way. Means of egress shall comply with the International Fire Code, as adopted by the City.
- b. Either provide a sprinkler system with a dedicated alarm system or provide exterior egress, *via* ladder or stairs, to the ground level from each sleeping room or sleeping areas located above the second floor through a properly sized window as identified in subsection 3, *infra*.
- c. All sleeping rooms shall have at least one window with a minimum area of 5.0 square feet of net clear opening with a minimum clear opening height and width of 22 inches and a maximum finished sill height of 48 inches above the floor.
- d. Each dwelling unit within the structure shall be equipped with the number of smoke alarms as required in Section 704.2.1.2. Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.

9-630 [RESERVED].

9-631 [RESERVED].

9-632 **Section [F] 704.6.1 of the 2018 International Property Maintenance Code** is hereby amended to read as follows:

[F] 704.6.1 Where required. Existing Group I-1 and R occupancies shall be provided with single-station smoke alarms in accordance with Sections 704.6.1.1 through 704.6.1.4. Interconnection and power sources shall be in accordance with Sections 704.6.2 and 704.6.3.

Exceptions:

1. Where smoke detectors connected to a fire alarm system have been installed as a substitute for smoke alarms.

9-633 **Section [F] 704.6.1.3 of the 2018 International Property Maintenance Code** is hereby amended to read as follows:

[F] 704.6.1.3 Installation near cooking appliances. Smoke alarms shall not be installed in the following locations unless this would prevent placement of a smoke alarm in a location required by Section 704.6.1.1 or 704.6.1.2.

1. Ionization smoke alarms shall not be installed less than 20 feet (6096 mm) horizontally from a permanently installed cooking appliance.
2. Ionization smoke alarms with an alarm-silencing switch shall not be installed less than 10 feet (3048 mm) horizontally from a permanently installed cooking appliance.
3. Photoelectric smoke alarms shall not be installed less than 6 feet (1829 mm) horizontally from a permanently installed cooking appliance.

Exception: Where smoke alarms have been installed and maintained at the locations required by Section 704.6.1.2, existing smoke alarms shall not be required to be relocated to comply with the horizontal distance separation requirements of this Section.

9-634 **Section [F] 704.6.1.4 of the 2018 International Property Maintenance Code** is hereby amended to read as follows:

[F] 704.6.1.4 Installation near bathrooms. Smoke alarms shall be installed not less than 3 feet (914 mm) horizontally from the door or opening of a bathroom that contains a bathtub or shower unless this would prevent placement of a smoke alarm required by Section 704.6.1.1 or 704.6.1.2.

Exception: Where smoke alarms have been installed and maintained at the locations required by Section 704.6.1.2, existing smoke alarms shall not be required to be relocated to comply with the horizontal distance separation requirements of this Section.

9-635 **Section [F] 704.6.2 of the 2018 International Property Maintenance Code** is hereby amended to read as follows:

[F] 704.6.2 Interconnection. Where there are no smoke alarms installed within an individual dwelling or sleeping unit, smoke alarms shall be installed as required and shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.

9-636 **Section 704.7 of the 2018 International Property Maintenance Code** is hereby amended to read as follows:

[F] 704.7 Single and multiple-station smoke alarms. Single and multiple-stations smoke alarms shall be tested and maintained in accordance with the manufacturer's instructions. Smoke alarms that do not function shall be replaced.

9-637 **Section 705 of the 2018 International Property Maintenance Code** is hereby amended to read as follows:

[F] 705.1 General. Carbon monoxide alarms shall be installed in dwellings where the following conditions exist:

(a) The dwelling unit contains a fuel-fired appliance; or

(b) The dwelling unit has an attached garage that opens directly into the dwelling unit.

9-638 **The 2018 International Property Maintenance Code is hereby amended by adding Sections 705.1.2 and 705.1.3, which read as follows:**

705.1.2 Location. Carbon monoxide alarms in *dwelling units* shall be installed outside of each separate sleeping area in the immediate vicinity of the *bedrooms*. Where a fuel-burning appliance is located within a *bedroom* or its attached

bathroom, a carbon monoxide alarm shall be installed within the *bedroom*.

705.1.3 Combination alarms. Combination carbon monoxide and smoke alarms shall be permitted to be used in lieu of carbon monoxide alarms.

9-639

SEVERABILITY.

If any section, clause, sentence, or phrase of this ordinance is found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining parts of this ordinance. (Ord. 8873, Ord. 9203, Ord. 9563)

ARTICLE 7. RADIOACTIVE MATERIALS

9-701

PURPOSE AND FINDINGS.

The purposes of the Article are:

- (A) To provide minimum standards and regulations ensuring the safe shipment and transportation of radioactive materials into, within, through, and out of the City of Lawrence.
- (B) To regulate the transport of radioactive waste through the City of Lawrence.
- (C) The Commission of the City of Lawrence finds that:
 - (1) The increasing production of radioactive wastes and other radioactive materials has led to increased transportation of these wastes and materials and to increased occurrences of transportation accidents involving the release of radioactivity to the environment.
 - (2) There is currently no monitoring of many of these shipments en route, by either Federal or State of Kansas officials and the federal capabilities for enforcement of compliance with federal safety regulations are inadequate unless supplemented by state or local action.
 - (3) There is, therefore, a significant threat to public health and safety and to the environment presented by the shipment of radioactive wastes and other radioactive materials into, within, through, and out of the City of Lawrence.
 - (4) The capability of emergency preparedness and response by the City of Lawrence to radioactive materials release, by accident or otherwise, where significantly hazardous quantities are involved, within the limits of the City of Lawrence is currently and foreseeably inadequate in terms of recovery cost, equipment, personnel and evacuation and, thus, the presence within the City of Lawrence of radioactive substances is an unacceptable risk to the health and safety of its residents. (Ord. 5344)

9-702

UNLAWFUL TO TRANSPORT RADIOACTIVE MATERIAL.

It shall be unlawful to transport within or through the City of Lawrence any of the following radioactive materials:

- (A) Plutonium isotopes in any quantity and form exceeding two (2) grams or twenty (20) curies, whichever is less;
- (B) Uranium enriched in the isotope U-235 exceeding twenty-five (25) atomic percent of the total uranium content in quantities where the U-235 content exceeds five (5) kilograms;
- (C) Any of the actinides (i.e., elements with atomic number 89 or greater) the activity of which exceeds twenty (20) curies;
- (D) Spent reactor fuel elements or mixed fission products associated with such spent fuel elements the activity of which exceeds twenty (20) curies; or
- (E) Any quantity of radioactive material specified as a "Large Quantity" by the Nuclear Regulatory Commission in 10 CFR Part 71, entitled "Packaging of Radioactive Material for Transport." (Ord. 5344, Sec. 3)

9-703

EXCEPTIONS.

For the purposes of this Article, the term "radioactive material" shall not include:

- (A) Radiation sources defined by the Department of Transportation in 49 CFR Section 173.391 as being a "Limited Quantity."
- (B) Radiation sources used in radiography and other non-destructive testing procedures, when used by persons duly licensed by the State of Kansas;
- (C) Radiation sources shipped by or for the United States government for military or national defense purposes;
- (D) Teletherapy sources or radioactive materials employed in therapeutic and/or diagnostic radiology, in biomedical research or in educational endeavors, or medical devices designed for individual application (e.g., cardiac pacemakers) containing plutonium-238, promethium-147 or other radioactive material. (Ord. 5344, Sec. 4)

9-704

MONTHLY REPORT REQUIRED.

It shall be unlawful to transport radioactive material as defined in Section 9-703 in any quantity within or through the City of Lawrence without the transporter's reporting such shipments on a monthly basis to the Fire Chief or designate. Such reporting shall include at least the following information:

- (A) Identification of all radioactive elements contained in said shipment by name, atomic numbers and weight;
- (B) Identification of the radioactive level of each shipment, in curies;
- (C) Identification of the transportation route, date and approximate time of such transport into or out of the City of Lawrence;
- (D) Names, addresses, and telephone numbers of the persons, associations, partnerships or corporations acting as consignee, shipper, or transporter. (Ord. 5344, Sec. 2)

9-705

RESTRICTION ON DISCLOSURE.

Nothing in the Article shall be construed to require the disclosure of any defense

information or restricted data as defined in the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974, as amended. (Ord. 5344, Sec. 5)

9-706

PENALTY.

Any person violating any of the provisions of this ordinance shall upon conviction thereof, be punished as provided in Section 1-112 by a fine of not more than \$500 or by imprisonment for not more than one (1) year, or by both such fine and imprisonment.

ARTICLE 8. SMOKING IN PUBLIC PLACES

9-801

PURPOSE.

The purpose of this Article is to (1) improve and protect the public's health by eliminating smoking in public places and places of employment; (2) guarantee the right of nonsmokers to breathe smoke-free air; and (3) recognize that the need to breathe smoke-free air shall have priority over the choice to smoke. (Ord. 7782)

9-802

DEFINITIONS.

The following words, terms, and phrases, when used in this Article, shall, except where the context clearly indicates otherwise, have the following meanings: (Ord. 8534, Ord 9878)

- (A) Access point means the area within a ten foot radius outside of any doorway, open window or air intake leading into a building or facility that is not exempted from the application of the restrictions of this Article by Section 9-807 of this code, and amendments thereto.
- (B) Bar means any indoor area that is operated and licensed for the sale and service of alcoholic beverages, including alcoholic liquor as defined in K.S.A. 41-102, and amendments thereto, or cereal malt beverages as defined in K.S.A. 41-2701, and amendments thereto, for on premises consumption.
- (C) Business means any sole proprietorship, partnership, joint venture, corporation or other business entity formed for profit-making purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural or other professional services are delivered.
- (D) Electronic Smoking Device means any electronic or battery-operated device that may be used to deliver any aerosolized or vaporized substance to the person inhaling from the device, including an electronic cigarette, electronic cigar, electronic pipe, electronic hookah or vape pen. Electronic smoking device includes any component, part, or accessory of any device listed herein. Electronic smoking device does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act under 21 U.S.C. § 321.
- (E) Employee means any person who is employed by an employer in consideration for direct or indirect monetary wages or profit, and any person who volunteers his or her services for a non-profit entity.
- (F) Employer means any person, partnership, corporation, association or organization, including municipal or non-profit entities, which employs one or

more individual persons.

- (G) Enclosed area means all space between a floor and ceiling which is enclosed on all sides by solid walls, windows or doorways which extend from the floor to the ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid, or similar structures.

For purposes of this section, the following shall not be considered an "enclosed area":

- (1) Rooms or areas, enclosed by walls, windows or doorways, having neither a ceiling nor a roof and which are completely open to the elements and weather at all times; and
 - (2) Rooms or areas, enclosed by walls, fences, windows or doorways and a roof or ceiling, having openings that are permanently open to the elements and weather and which comprise an area that is at least 30% of the total perimeter wall area of such room or area.
- (H) Food Service Establishment shall mean any place in which food is served or is prepared for sale or service on the premises or elsewhere. Such term shall include, but not be limited to, fixed or mobile restaurant, coffee shop, cafeteria, short-order café, luncheonette, grill, tea room, sandwich shop, soda fountain, tavern, private club, roadside kitchen, commissary and any other private, public or nonprofit organization or institution routinely serving food and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge.
- (I) Gaming floor means the area of a lottery gaming facility or racetrack gaming facility, as those terms are defined in K.S.A. 74-8702, and amendments thereto, where patrons engage in Class III gaming. The gaming floor shall not include any areas used for accounting, maintenance, surveillance, security, administrative offices, storage, cash or cash counting, records, food service, lodging or entertainment, except that the gaming floor may include a bar where alcoholic beverages are served so long as the bar is located entirely within the area where the Class III gaming is conducted.
- (J) Lawrence-Douglas County Public Health shall mean designated representatives of the Lawrence-Douglas County Public Health Department's Environmental Health Program Area who are vested with the power to enforce the provisions of this Article and to issue citations or notices to appear for violations hereof.
- (K) Licensed Premises shall mean any premises where alcoholic liquor or cereal malt beverages, or both, by the individual drink as defined by K.S.A. Chapter 41, and amendments thereto, is served or provided for consumption or use on the premises with or without charge. Such term shall include drinking establishments, Class A clubs, Class B clubs, and cereal malt beverage retailers, all as defined by K.S.A. Chapter 41, and amendments thereto, and this Code.
- (L) Medical care facility means a physician's office, general hospital, special hospital, ambulatory surgery center or recuperation center, as defined by K.S.A. 65-425, and amendments thereto, and any psychiatric hospital licensed under K.S.A.-39-2001 *et. seq.*, and amendments thereto.

- (M) Outdoor recreational facility means a hunting, fishing, shooting or golf club, business or enterprise operated primarily for the benefit of its owners, members and their guests and not normally open to the general public.
- (N) Place of employment means any enclosed area under the control of a public or private employer, including, but not limited to, work areas, auditoriums, elevators, private offices, employee lounges and restrooms, conference and meeting rooms, classrooms, employee cafeterias, stairwells and hallways, that is used by employees during the course of employment. A private residence is not a place of employment unless it is used as a day care, as defined in K.S.A. 65-530, adult day care or health care facility.
- (O) Private club means an outdoor recreational facility or other social, or recreational club operated primarily for the use of its owners, members and their guests that in its ordinary course of business is not open to the general public for which use of its facilities has substantial dues or membership fee requirements for its members.
- (P) Private Place means any enclosed area to which the public is not invited or in which the public is not permitted, including but not limited to, personal residences or personal motor vehicles. A privately owned business, open to the public, is not a "private place."
- (Q) Public building means any building owned or operated by:
- (1) The state, including any branch, department, agency, bureau, commission, authority or other instrumentality thereof;
 - (2) Any county, city, township, other political subdivision, including any commission, authority, agency or instrumentality thereof; or
 - (3) Any other separate corporate instrumentality or unit of the state or any municipality.
- (R) Public meeting means any meeting open to the public pursuant to K.S.A. 75-4317 et seq., and amendments thereto, or any other law of this state.
- (S) Public place means any enclosed indoor areas open to the public or used by the general public including, but not limited to: Restaurants, banks, bars, food service establishments, retail service establishments, retail stores, public means of mass transportation, passenger elevators, health care institutions or any other place where health care services are provided to the public, medical care facilities, educational facilities, libraries, courtrooms, state, county or municipal public buildings, restrooms, grocery stores, school buses, museums, theaters, auditoriums, arenas and recreational facilities. For purposes of this section, a private residence shall not be considered a "public place" unless such residence is used as a day care, as defined in K.S.A. 65-530, adult day care or health care facility.
- (T) Service Line means any indoor line at which one (1) or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.
- (U) Smoking means:

- (1) using an electronic smoking device for the purpose of inhaling from it or otherwise introducing aerosolized or vaporized substances into the body; or
 - (2) possession of a cigarette, cigar, hookah, or pipe partially or wholly consisting of or containing burning vegetation, whether natural or synthetic, or possession of any other device containing burning vegetation that is used for the introduction of smoke from the burning vegetation into the human body.
 - (3) For the purposes of this definition, the term vegetation includes, but is not limited to, tobacco, but does not include any controlled substance listed at K.S.A. 65-4105 through K.S.A. 65-4113, inclusive, as amended.
- (V) Sports Arena means sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys and other similar places where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events.
- (W) Substantial dues or membership fee requirements means initiation costs, dues or fees proportional to the cost of membership in similarly-situated outdoor recreational facilities that are not considered nominal and implemented to otherwise avoid or evade legal restrictions on smoking.
- (X) Tobacco Shop means a retail store operated primarily for the sale of tobacco, tobacco products and smoking devices and which derives not less than 65% of its gross receipts from the sale of tobacco. A business shall not be considered a tobacco shop if:
- (1) Any of its gross receipts are derived from the sale of cereal malt beverages or alcoholic liquor, or it is located within or is a licensed premises.
 - (2) It is located within another business, in whole or in part, that is not exempt from the provisions of this Article.
 - (3) It has an entrance useable by the public that is located within a business that is not exempt from the provisions of this Article.
 - (4) The mandatory purchase of any tobacco or tobacco product is required for admission into the business.
- (Y) Wall means a side of a room, building or structure connecting the floor and ceiling or foundation and roof, including temporary, moveable, and retractable sides.

9-803

PROHIBITION OF SMOKING IN PUBLIC PLACES.

It shall be unlawful for a person to smoke in any access point, public meeting, or any enclosed public place including, but not limited to, the following places: (Ord. 8534)

- (A) Restrooms, lobbies, reception areas, hallways, and any other common-use area in public and private buildings, condominiums and multiple residence facilities.

- (B) Buses, bus terminals, taxicabs, train stations, the airport, and other facilities and means of public transit under the authority of the City of Lawrence, as well as ticket, boarding, and waiting areas of public transit depots.
- (C) Service lines.
- (D) Retail stores.
- (E) All areas available to and customarily used by the general public in all businesses and non-profit entities patronized by the public, including, but not limited to, attorneys' offices, and other offices, banks, laundromats, hotels, and motels.
- (F) Food service establishments, bars and other licensed premises, excluding areas that are not enclosed.
- (G) Galleries, libraries, museums, and grounds.
- (H) Any facility which is primarily used for exhibiting any motion picture, stage, drama, lecture, musical recital or other similar performance.
- (I) Sports arenas and convention halls, including bowling facilities.
- (J) Waiting rooms, hallways, wards and semiprivate rooms of health facilities, including, but not limited to, hospitals, clinics, physical therapy facilities, doctors' offices, and dentists' offices.
- (K) Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities.
- (L) Polling places.
- (M) Private clubs and fraternal organization facilities, including Class A and B clubs as defined in K.S.A. 41-2601, and amendments thereto.
- (N) Gaming floors.

9-804

PROHIBITION OF SMOKING IN PLACES OF EMPLOYMENT.

(Ord. 8534)

- (A) It shall be unlawful for any person to smoke in any enclosed area that is a place of employment.
- (B) It shall be the responsibility of employers to provide a smoke-free workplace for all employees.
- (C) Each employer having any enclosed place of employment located within the City of Lawrence shall adopt, implement, make known and maintain, a written smoking policy which shall contain the following requirements:

Smoking shall be prohibited in all enclosed facilities within a place of employment without exception. This includes work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms,

and all other enclosed areas.

- (D) The smoking policy shall be communicated to all employees within one (1) week of its adoption and to all new employees upon hiring.
- (E) All employers shall supply a written copy of the smoking policy upon request to any existing or prospective employee.

9-805

ADDITIONAL DECLARATION OF NON-SMOKING ESTABLISHMENT.

Notwithstanding any other provision of this Article, any owner, operator, manager or other person who controls any establishment described in this Article may declare that entire establishment as a non-smoking establishment. (Ord. 7782)

9-806

APPLICATION OF ARTICLE TO CITY-OWNED FACILITIES.

All enclosed facilities owned by the City of Lawrence shall be non-smoking at all times notwithstanding other provisions of this Article. (Ord. 7782)

9-807

WHERE SMOKING IS NOT REGULATED: PRIVATE AND PUBLIC PLACES.

Notwithstanding any other provision of this Article to the contrary, the following areas shall not be subject to the smoking restrictions of this Article: (Ord. 8534)

- (A) Private residences, except when used as a as a day care, as defined in K.S.A. 65-530, and amendments thereto, adult day care or health care facility;
- (B) No more than twenty percent (20%) of hotel and motel rooms rented to guests.
- (C) Tobacco shops, as defined in this Article.
- (D) Outdoor places of employment except:
 - 1. Access points; and
 - 2. Areas covered in Section 9-805 of this article,
- (E) Private places.

9-808

POSTING OF SIGNS.

- (A) The owner, manager or other person having control of a public place, place of employment, or other area where smoking is prohibited by this Article shall post or cause to be posted a conspicuous sign at each entrance to such area clearly stating that smoking is prohibited by law within the area. (Ord. 8534)
- (B) Such "No Smoking" signs shall display the international "No Smoking" symbol and all required text shall be rendered in bold lettering of not less than one (1) inch in height. The international "No Smoking" symbol consists of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it. (Ord. 8534)

9-809

PUBLIC HEALTH EDUCATION: LAWRENCE-DOUGLAS COUNTY PUBLIC HEALTH.

Lawrence-Douglas County Public Health shall promote the purposes and requirements of this Article to the public affected by it, and guide owners, operators and managers in their compliance with it. Such promotion may include publication

of a brochure for affected businesses and individuals explaining the provisions of this Article. (Ord. 7782, 9878)

9-810

ENFORCEMENT.

(Ord. 8534, 9878)

- (A) The Fire Chief or designated agent shall be responsible for enforcing the provisions of this Article within the City, but nothing in this section shall be interpreted to prohibit any other person who would otherwise be lawfully entitled to enforce the provisions of this Article from taking enforcement action under this Article.
- (B) Notice of the provisions set forth in this Article shall be given to all applicants for a City retail liquor or drinking establishment license.
- (C) Any person may register a complaint under this Article to initiate enforcement with the Fire Chief.
- (D) Lawrence-Douglas County Public Health, the Lawrence-Douglas County Fire & Medical Department, and the Department of Planning and Development Services shall, while an establishment is undergoing otherwise mandated inspections, inspect for compliance of this Article.
- (E) Any owner, manager, operator or employee of any premises regulated by this Article shall be responsible for informing persons violating this Article of its provisions through appropriate signage.

9-811

NON-RETALIATION.

No employer shall discharge, refuse to hire or in any manner retaliate against an employee, applicant for employment or customer because that employee, applicant or customer reports or attempts to prosecute a violation of any of the provisions of this Article. (Ord. 8534)

9-812

VIOLATIONS AND PENALTIES.

(Ord. 8534)

- (A) It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any public place or other area where smoking is prohibited under this Article to fail to comply with any or all of its provisions.
- (B) It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any public place or other area where smoking is prohibited under this Article to allow smoking to occur where prohibited by this Article. Any such person allows smoking to occur under this section if said person:
 - 1. has knowledge that smoking is occurring, and;
 - 2. acquiesces to the smoking under the totality of the circumstances.
- (C) It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this Article.
- (D) Any person who violates any provision of this Article shall be guilty of an ordinance tobacco infraction, punishable by:

1. A fine not exceeding One Hundred Dollars (\$100.00) for the first violation.
2. A fine not exceeding Two Hundred Dollars (\$200.00) for a second violation within a one (1) year period of the first violation.
3. A fine not exceeding Five Hundred Dollars (\$500.00) for a third or subsequent violation within a one (1) year period of the first violation.
4. For the purposes of this subsection, the number of violations within a year shall be measured by the date the smoking violations occur. Violations of this Article and the Kansas Indoor Clean Air Act, K.S.A. 21-6109 *et. seq.*, and amendments thereto, shall both be considered prior violations for the purpose of this Article.
5. Each individual allowed to smoke in violation of this Article by a person who owns, manages, operates or otherwise controls the use of any public place, or other area where smoking is prohibited shall be considered a separate violation for purposes of determining the number of violations under this section.

9-813

OTHER APPLICABLE LAWS.

This Article shall not be interpreted nor construed to permit smoking where it is otherwise restricted by other applicable laws. (Ord. 7782)

9-814

SEVERABILITY.

If any provision, clause, sentence or paragraph of this Article or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are declared to be severable. (Ord. 7782, Ord. 8534)

ARTICLE 8A. TOBACCO RETAIL LICENSING

9-8A01

SHORT TITLE.

This article shall be known as the "Tobacco Retail Licensing Act." (Ord. 9946)

9-8A02

PURPOSE.

The Governing Body finds that, in order to advance the health, safety, and welfare of the residents of the City of Lawrence, Kansas, it is necessary to regulate certain activities, including the sale of tobacco at retail. (Ord. 9946)

9-8A03

DEFINITIONS.

The following words, terms, and phrases, when used in this Article, shall, except where the context clearly indicates otherwise, have the following meanings: (Ord. 9946)

- (a) **Distribute or Distribution** means to furnish, give away, provide, sell or attempt to do so, whether gratuitously or for any type of compensation.
- (b) **Electronic Smoking Device** means any electronic or battery-operated device that may be used to deliver any aerosolized or vaporized substance to the person inhaling from the device, including an electronic cigarette,

electronic cigar, electronic pipe, electronic hookah or vape pen. Electronic smoking device includes any component, part, or accessory of any device listed herein. Electronic smoking device does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act at 21 U.S.C. § 321, as amended.

- (c) **Flavored Tobacco Product** means any tobacco product that contains a taste or smell, other than the taste or smell of tobacco, that is distinguishable by an ordinary consumer either prior to or during the consumption of a tobacco product, including, but not limited to any taste or smell relating to fruit, menthol, mint, wintergreen, chocolate, cocoa, vanilla, honey, molasses, or any candy, dessert, alcoholic beverage, herb, or spice.
- (d) **Lawrence-Douglas County Public Health or L-DCPH** shall mean designated representatives of the Lawrence-Douglas County Public Health Department's Environmental Health Program Area vested with the power to enforce the provisions of this Article and issue citations or notices to appear for violations thereof.
- (e) **License** means a certificate granting permission to distribute tobacco products within the City of Lawrence. There are two licenses applicable to this Article: (1) a **Tobacco Retail License**, which grants permission for a tobacco retailer to distribute tobacco products; and (2) a **Tobacco Self-Service Display License**, which grants permission for a self-service display operator to distribute tobacco products.
- (f) **Person** means any natural person.
- (g) **Purchaser** means any person who obtains or attempts to obtain a tobacco product.
- (h) **Self-Service Display** means any coin, currency, or token-operated machine containing a display from which customers may select for purchase a tobacco product without assistance from the tobacco retailer or the tobacco retailer's agent or employee and without a direct person-to-person transfer between the purchaser and the tobacco retailer or tobacco retailer's agent or employee. A vending machine is a form of self-service display.
- (i) **Tobacco Product** means: (1) any product containing, made of, or derived from tobacco or nicotine that is intended for human consumption or is likely to be consumed, whether inhaled, absorbed, or ingested by any other means, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus; (2) any electronic smoking device and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine; or (3) any component, part, or accessory of (1) or (2), whether or not any of these contain tobacco or nicotine, including but not limited to filters, rolling papers, blunt or hemp wraps, and pipes. Tobacco product does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act at 21 U.S.C. § 321, as amended.
- (j) **Tobacco Retail Establishment** means any place of business where tobacco products are available for sale to the general public. The term

includes but is not limited to grocery stores, tobacco product shops, kiosks, convenience stores, gasoline service stations, bars, and restaurants.

- (k) **Tobacco Retailer** means any person, partnership, joint venture, society, club, trustee, trust, association, organization, or corporation who owns, operates, or manages any tobacco retail establishment or self-service display. Tobacco retailer does not include non-management employees of any tobacco retailer.

9-8A05

LICENCE REQUIRED.

(Ord. 9946)

- (a) It shall be unlawful for any Tobacco Retailer to engage in the Distribution of Tobacco Products, unless such Tobacco Retailer has first obtained from L-DCPH and is in possession of a valid and current Tobacco Retail License to sell or otherwise Distribute Tobacco Products. A Tobacco Retail License is required for each location in which such Tobacco Retailer sells or Distributes Tobacco Products.
- (b) It shall be unlawful for any person or business operating a Self-Service Display to engage in the Distribution of Tobacco Products, unless such person or business has obtained from L-DCPH and is in possession of a valid and current Tobacco Self-Service Display License to sell or otherwise Distribute Tobacco Products. A Tobacco Self-Service Display License is required for each location in which such person or business, operating a Self-Service Display, sells or Distributes Tobacco Products.

9-8A06

LICENSE APPLICATION; ISSUANCE, DENIAL.

(Ord. 9946)

- (a) Application for a License under this Article shall be made with L-DCPH on a form provided by the L-DCPH for that purpose.
- (b) Within 14 days of receipt of an application for a License under this Article, the L-DCPH shall issue the License unless:
- (1) The application is incomplete;
 - (2) The application is determined to be fraudulent, to include a material misrepresentation, or to contain a false statement;
 - (3) The L-DCPH determines that the applicant is not currently in compliance with the Kansas Cigarettes and Tobacco Products Act of 1933, codified as amended at K.S.A. 79-3301 *et seq.*;
 - (4) The applicant has had a Tobacco Retail License or Tobacco Self-Service Display License revoked within 12 months, preceding the date of application; or
 - (5) The applicant has been convicted, under federal, state, or local laws for an offense related to the distribution or use of Tobacco Products within 36 months, preceding the date of application.
- (c) If the application is determined to be deficient because it is incomplete under Section 9-8A06(b)(1), including the failure to pay the License Fee or

failure to sign the document provided by L-DCPH, L-DCPH shall give notice to the applicant 14 days therefrom within which to provide a completed application.

- (d) If the application is denied under Section 9-8A06(b)(2)-(5), or the applicant fails to complete the application within the fourteen-day period of Section 9-8A06(c), then L-DCPH shall deny the application by giving Notice of Denial to the applicant. Notice of Denial shall be in writing, shall be mailed to the applicant, shall inform the applicant of the reason for denial with specificity, including all documentation supporting any allegation of fraud or material misrepresentation, and shall state that the applicant has 14 days from the date of the Notice of Denial in which to file with L-DCPH any written Notice of Appeal in accordance with Section 9-8A18.

- (d) The L-DCPH shall maintain a copy of the Notice of Denial in its files.

9-8A07

LICENSE FEE.
(Ord. 9946)

- (a) The License Fee for each Tobacco Retail License required by this Article shall be \$260.00 per year and shall be due at the time of application.
- (b) The License Fee for each Tobacco Self-Service Display License required by this Article shall be \$15.00 dollars per year and shall be due at the time of application.
- (c) The License Fee shall be prorated for the year in which it is issued. The License Fee, however, shall not be refunded upon suspension or revocation of a Rental License.
- (d) The fees stated in this Section shall be used to cover the administrative costs for administering licenses, providing education and training, and making retail inspections, and unannounced compliance checks as authorized by law. L-DCPH shall, from time to time, review the costs of the License Fees and adjust the License Fees to insure that the program established by this Article remains revenue neutral.

9-8A08

TERM.

(Ord. 9946)

Each License issued under this Article, as amended, shall be valid until 11:59 p.m. on December 31 of the year in which the License is issued.

9-8A09

LICENSES NON-ASSIGNABLE AND NON-TRANSFERABLE.

(Ord. 9946)

Licenses issued under this Article are non-assignable and non-transferable.

9-8A10

DISPLAY.

(Ord. 9946)

- (a) Each Licensee issued a Tobacco Retail License shall display the License in a prominent location at the Tobacco Retail Establishment.

- (b) Each Licensee issued a Tobacco Self-Service Display License shall display the License in a prominent location on the Tobacco Self-Service Display.

9-8A10

TOBACCO RETAILER RESPONSIBILITIES.

(Ord. 9946)

- (a) Each applicant for a Tobacco Retail License shall sign a form, provided and maintained by L-DCPH, stating that the applicant has read this Article and has provided training to all of its employees, if any, who engage in the Distribution of Tobacco Products. Such training shall include but not be limited to providing information that the Distribution of Tobacco Products to Persons under 21 years of age is prohibited, the types of identification legally acceptable to establish proof of age, and that sales to Persons under 21 years of age will subject the Tobacco Retailer to penalties.
- (b) Upon the issuance of any Tobacco Retailer License, the Tobacco Retailer shall be responsible for providing ongoing education to all new agents or employees regarding the laws prohibiting the Distribution of Tobacco Products to Persons under 21 years of age.

9-8A11

TOBACCO RETAILER LICENSE RENEWAL.

(Ord. 9946)

- (a) On or about November 1 of each year, L-DCPH will mail to each Tobacco Retail Licensee and to each Tobacco Self-Service Display Licensee a renewal Notice and a renewal application form.
- (b) To renew a License under the Article, the Licensee must, BEFORE January 1 of the succeeding year: (1) remit to L-DCPH the License Fee established at Lawrence-Douglas County Public Health the Tobacco Retailer License Fee as set forth at Section 9-8A07; (2) complete the renewal application form; (3) sign the statement that the Licensee has read this Article and has provided training to all of its employees, if any, who engage in the Distribution of Tobacco Products; and (4) return the completed renewal application form and all requested information to L-DCPH.
- (c) A License issued under this Article shall not be renewed if the Licensee has any outstanding fines issued under this Article, if the renewal form is incomplete, or if L-DCPH determines that the Licensee is no longer in compliance with the Kansas Cigarettes and Tobacco Products Act of 1933, codified as amended at K.S.A. 79-3301 *et seq.*.
- (d) Any renewal application received after January 1 but before March 1 of the succeeding year, shall be approved by Lawrence-Douglas County Public Health -- provided that the renewal application meets all requirements of Section 9-8A11(c) -- if the Licensee includes all information required for renewal and remits to L-DCPH a \$75.00 late fee in addition to the License Fee or License Fees due upon renewal. Any License not renewed before March 1 of the succeeding year will be deemed abandoned and will not be renewed.

9-8A12

AGE VERIFICATION.

(Ord. 9946)

- (a) Before selling or Distributing any Tobacco Product, the Tobacco Retailer or the Tobacco Retailer's agent or employee shall verify that the purchaser of the Tobacco Product is at least 21 years of age. Each Tobacco Retailer or Tobacco Retailer's agent or employee shall examine the purchaser's government-issued photographic identification, which may include a driver's license, state identification card, passport, or military identification. No such verification shall be required for any Person who reasonably appears to be over 30 years of age.
- (b) It shall be a defense to a prosecution under this section if the Tobacco Retailer or Tobacco Retailer's agent or employee sold or Distributed Tobacco Products to the person under 21 years of age, if the Tobacco Retailer or Tobacco Retailer's agent or employee had reasonable cause to believe that the Person purchasing the Tobacco Products was of legal age to purchase or receive such Tobacco Products.

9-8A13

SELF-SERVICE DISPLAYS.

(Ord. 9946)

No Tobacco Retailer or Tobacco Retailer's agent or employee shall sell or Distribute Tobacco Products from a Self-Service Display except in locations where persons under 21 years of age are not permitted access at any time. In other words, Self-Service Displays are prohibited except in locations where persons under 21 years of age are excluded at all times.

9-8A14

SIGNAGE.

(Ord. 9946)

No Tobacco Retailer shall sell, permit the sale of, or Distribute Tobacco Products within the City unless a notice is posted at any location where Tobacco Products are available for purchase. All notices must be posted in a manner conspicuous to both employees and consumers, unobstructed from view in their entirety, and within six (6) feet of each register where Tobacco Products are available for purchase. Lawrence-Douglas County Public Health shall provide this notice, which shall state: "NO PERSON UNDER THE AGE OF 21 MAY BE SOLD TOBACCO PRODUCTS, INCLUDING ELECTRONIC SMOKING DEVICES." The notice must be at least 14" by 11" and the words on the notice must be legibly printed in a high contrast red color with capitalized letters at least one inch high.

9-8A15

CONTINUING EDUCATION.

(Ord. 9946)

L-DCPH shall provide a continuing public health education program to explain the purposes and requirements of this Article and to provide guidance to Tobacco Retailers and their agents or employees with respect to compliance with its terms. The program may include, among other things, the publication of a brochure explaining the provisions of this Article and signage mandated by this Article.

9-8A16

SUSPENSION OR REVOCATION.

(Ord. 9946)

- (a) L-DCPH may suspend or revoke any Tobacco Retail License or any Tobacco Self-Service Display License if the Licensee directly or, through an agent or employee, indirectly:

- (1) Violates any provision of this Article; or
 - (2) Sells or Distributes Tobacco Products to a Person under 21 years of age.
- (b) Upon a second conviction of any violation of this Article within 36 months of the first conviction, L-DCPH shall suspend the license for 7 days. Upon a third conviction of any violation of this Article within 36 months of a first conviction, L-DCPH shall suspend the license for 30 days. Upon a fourth or subsequent conviction of any violation of this Article within 36 months of a first conviction, L-DCPH shall suspend the license for 3 years.
 - (b) If L-DCPH suspends or revokes a License issued under this Article, then L-DCPH shall issue a written Notice of Suspension or Notice of Revocation to the Licensee. In determining whether to suspend or to revoke a License, L-DCPH shall take into account the severity of the violation and all other relevant mitigating and aggravating circumstances, including, but not limited to whether or not the Licensee has had other revocations or convictions under this Article. The Notice of Suspension or Notice of Revocation shall be in writing, shall be mailed to the applicant, shall inform the applicant of the reason for suspension or revocation with specificity, shall state the date upon which the suspension or revocation shall be effective, and shall state that the applicant has 14 days from the date of the Notice of Suspension or Notice of Revocation in which to file with L-DCPH any written Notice of Appeal in accordance with Section 9-8A17.
 - (c) When a License is suspended or revoked, the Licensee shall remove all products and advertising for those products from view, until such time that the License is no longer suspended or revoked. Failure to remove items shall be deemed a violation of this Article.
 - (d) If the Licensee brings an appeal, then Section 9-8A16(c) shall be stayed during the pendency of the appeal, unless L-DCPH finds that the violation or violations are so egregious that a stay will harm the health, safety, and welfare of the community.

9-8A17

APPEAL.
(Ord. 9946)

- (a) Any applicant or Licensee aggrieved by the action of L-DCPH in issuing a Notice of Denial, a Notice of Suspension, or Notice of Revocation may appeal such action by filing with the L-DCPH a Notice of Appeal within fourteen (14) days of the date of the Notice of Appeal, the Notice of Suspension, or Notice of Revocation. The Notice of Appeal shall be in writing and shall set forth in sufficient detail why the Licensee believes that the Notice of Denial, Notice of Suspension, or Notice of Revocation issued by L-DCPH was issued erroneously. When a Notice of Appeal is filed, the burden of proof shall be on the applicant or Licensee to show, by a preponderance of the evidence presented, that the allegations set forth in the Notice of Appeal are true.
- (b) After a Notice of Appeal is filed with L-DCHA, the Director of the Lawrence-Douglas County Health Department shall within 14 days of receiving the Notice of Appeal, set the Appeal for hearing. The Director may request

additional information from L-DCPH or the appellant, as may be necessary. The hearing shall be informal. The appellant shall be given the opportunity to show that the Notice of Denial, Notice of Suspension, or Notice of Revocation was issued in error. The Department may ask L-DCPH to make any rebuttal.

- (c) Within 14 days of the hearing, the Director shall issue a written finding either affirming or reversing the decision of the L-DCPH and stating the reasons therefor. The written finding shall be served upon the applicant or the Licensee in the same manner as the Notice of Denial, Notice of Suspension, or Notice of Revocation.
- (d) If the action of L-DCPH is reversed, then the Notice of Denial, Notice of Suspension, or Notice of Revocation is rescinded. If the action of L-DCPH is affirmed, then any automatic stay under Section 9-8A12(c) shall be lifted and the applicant or Licensee shall not be permitted to sell or Distribute Tobacco Products under this Article and any Licensee shall comply with the provisions of Section 9-8A16(c).
- (e) The decision of the Director shall be the final order of L-DCPH. Any person aggrieved by a final order of the Director shall have the right, in accordance with state law, to appeal that final order to the District Court of Douglas County, Kansas.

9-8A18

UNLAWFUL CONDUCT.
(Ord. 9946)

- (a) It shall be unlawful for any Person or any business establishment to sell or Distribute Tobacco Products without first acquiring from L-DCPH and having in said Person's or establishment's possession a valid and current Tobacco Retail License or Tobacco Self-Service Display License for the Tobacco Retail Establishment or Self-Service Display selling or Distributing Tobacco Products.
- (b) It shall be unlawful for any Tobacco Retailer, either directly or indirectly, through agents, employees, or other means, to sell or Distribute Tobacco Products to Persons under 21 years of age.
- (c) It shall be unlawful for any Tobacco Retailer, either directly or indirectly, through agents, employees, or other means, to violate any provision of this Article.

9-8A19

PENALTIES
(Ord. 9946)

- (a) Engaging in any of the unlawful acts set forth at Section 9-8A18 shall be a separate municipal offense. Any Tobacco Retailer violating a provision of Section 9-8A18 of this Article shall, upon an adjudication of guilt or the entry of a plea of no contest, be subject to the following:
 - (1) For a first conviction, a fine of not less than \$500;
 - (2) For a second conviction, occurring within 36 months from a first conviction, a fine of not less than \$750.

- (3) For a third conviction, occurring within a 36 months from a first conviction, a fine not less than \$1,000, and
 - (4) For a fourth and any subsequent convictions, occurring within 36 months from a first conviction, a fine not less than \$1,000.
- (b) All fines collected under this Section shall be deposited into a "Tobacco Prevention and Education Fund" administered by L-DCPH, to be reinvested for community education, youth tobacco prevention, and efforts to improve compliance with state and local tobacco product sales and use laws.
 - (c) No prosecution shall be commenced under this Article for any alleged violation of this Article against any Person other than a Tobacco Retailer.

9-8A20

EXEMPTIONS; DEFENSES.
(Ord. 9946)

- (a) The penalties established in this Article do not apply to persons younger than 21 years of age who purchase or attempt to purchase Tobacco Products while under the direct supervision of L-DCPH staff or their authorized appointees for training, education, research, or any enforcement purposes as authorized by law.
- (b) Nothing in this Article shall be construed to prohibit Persons under 21 years of age from handling tobacco products in the course of lawful employment by a Tobacco Retailer.
- (c) Nothing in this Article shall be construed to prohibit the Distribution of Tobacco products to any Person as part of an indigenous practice or a lawfully recognized religious, spiritual, or cultural ceremony or practice.
- (d) It shall be an affirmative defense to a violation of this Article for a Tobacco Retailer or a Tobacco Retailer's agent or employee to have reasonably relied on proof of age.

9-8A21

LAWRENCE-DOUGLAS COUNTY PUBLIC HEALTH RESPONSIBILITIES.
(Ord. 9946)

- (a) L-DCPH shall have the authority to adopt rules and regulations not inconsistent with the terms of this Article for the purpose of carrying out and enforcing the objectives set out in the title hereof. A copy of such rules and regulations shall be approved by the Governing Body and filed and made available for public examination in the office of the City Clerk. Copies of such rules and regulations shall also be made available to all applicants under this Article. Failure or refusal to comply with any of the rules and regulations promulgated under this Section shall be deemed a violation of this Article.
- (b) It shall be the duty of L-DCPA to enforce the provisions of this Article. The Governing Body hereby grants to L-DCPA the authority to issue citations and notices to appear for any violations under this Article.

- (c) L-DCPA shall expeditiously advise the City Clerk of any licenses granted under the authority of this Article and denials, suspensions, or revocations of the same, upon request.

9-8A22

ENFORCEMENT.
(Ord. 9946)

A tobacco retailer shall be subject to at least two unannounced compliance checks per year. L-DCPH or its authorized designee shall conduct compliance checks for the purposes of evaluating compliance with this Article, by engaging persons between the ages of 18 and 20 to enter the tobacco retail establishment to attempt to purchase tobacco products. Unannounced follow-up compliance checks of all non-compliant tobacco retailers are required within three months of any violation of this Article. The results of all compliance checks shall be published at least annually and made available to the public upon request, in compliance with applicable open records laws.

ARTICLE 9. STORMWATER POLLUTION PREVENTION

9-901

GENERAL PROVISIONS.

(A) Purposes.

The purpose and objectives of this Article are as follows: (Ord. 7373)

1. To maintain and improve the quality of water impacted by the storm drainage system within the City of Lawrence.
2. To prevent the discharge of contaminated stormwater runoff and illicit discharges from industrial, commercial, residential, and construction sites into the storm drainage system within the City of Lawrence.
3. To promote public awareness of the hazards involved in the improper discharge of trash, yard waste, lawn chemicals, pet waste, wastewater, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment and other pollutants into the storm drainage system.
4. To encourage recycling of used motor oil and safe disposal of other hazardous consumer products.
5. To facilitate compliance with state and federal standards and permits by owners of construction sites within the City.
6. To enable the City to comply with all federal and state laws and regulations applicable to the National Pollutant Discharge Elimination System (NPDES) permitting requirements for stormwater discharges.

(B) Administration.

Except as otherwise provided herein, the Director of the Municipal Services and Operations Department shall administer, implement, and enforce the provisions of this Article. (Ord. 7373, Ord. 9491)

(C) Abbreviations.

The following abbreviations when used in this Article shall have the designated

meanings: (Ord. 7373)

- BMP - Best Management Practices
- CFR - Code of Federal Regulations
- EPA - U.S. Environmental Protection Agency
- HHW - Household Hazardous Waste
- KDHE - Kansas Department of Health and Environment
- MS4 - Municipal Separate Storm Sewer System
- NPDES - National Pollutant Discharge Elimination System
- SWP3 - Stormwater Pollution Prevention Plan

(D) Definitions.

Unless a provision explicitly states otherwise, the following terms and phrases as used in this Article, shall have the meanings hereinafter designated. (Ord. 7373)

Best Management Practices (BMP's) here refers to management practices and methods to control pollutants in stormwater. BMP's are of two types: "source controls" (nonstructural) and "treatment controls" (structural.) Source controls are practices that prevent pollution by reducing potential pollutants at their source, before they come into contact with stormwater. Treatment controls remove pollutants from stormwater. The selection, application and maintenance of BMP's must be sufficient to prevent or reduce the likelihood of pollutants entering the storm drainage system. Specific BMP's may be imposed by the City and are discussed further in Section 9-902 (E).

City means the City of Lawrence, Kansas.

Commercial means pertaining to any business, trade, industry, or other activity engaged in for profit.

Construction Site means any location where construction activity occurs.

Contaminated means containing harmful quantities of pollutants.

Contractor means any person or firm performing or managing construction work at a construction site, including any construction manager, general contractor or subcontractor. Also includes, but is not limited to, earthwork, paving, building, plumbing, mechanical, electrical or landscaping contractors, and material suppliers delivering materials to the site.

Director means the person appointed to the position of Director of the Municipal Services and Operations Department by the City Manager of the City of Lawrence, Kansas, or his or her duly authorized representative.

Discharge means any addition or release of any pollutant, stormwater or any other substance whatsoever into storm drainage system.

Discharger means any person who causes, allows, permits, or is otherwise responsible for, a discharge, including, without limitation, any owner of a construction site or industrial facility.

Domestic Sewage means sewage originating primarily from kitchen, bathroom and laundry sources, including waste from food preparation, dishwashing, garbage grinding, toilets, baths, showers and sinks.

Earthwork means the disturbance of soils on a site associated with clearing, grading, or excavation activities.

Environmental Protection Agency (EPA) means the United States Environmental Protection Agency, the regional office thereof, any federal department, agency, or commission that may succeed to the authority of the EPA, and any duly authorized official of the EPA or such successor agency.

Facility means any building, structure, installation, process, or activity from which there is or may be a discharge of a pollutant.

Fertilizer means a substance or compound that contains an essential plant nutrient element in a form available to plants and is used primarily for its essential plant nutrient element content in promoting or stimulating growth of a plant or improving the quality of a crop, or a mixture of two or more fertilizers.

Fire Protection Water means any water, and any substances or materials contained therein, used by any person to control or extinguish a fire, or to inspect or test fire equipment.

Garbage means putrescible animal and vegetable waste materials from the handling, preparation, cooking, or consumption of food, including waste materials from markets, storage facilities, and the handling and sale of produce and other food products.

Groundwater means any water residing below the surface of the ground or percolating into or out of the ground.

Harmful Quantity means the amount of any substance that the Director determines will cause an adverse impact to storm drainage system or will contribute to the failure of the City to meet the water quality based requirements of the NPDES permit for discharges from the MS4.

Hazardous Substance means any substance listed in Table 302.4 of 40 CFR Part 302.

Hazardous Waste means any substance identified or listed as a hazardous waste by the EPA pursuant to 40 CFR Part 261.

Household Hazardous Waste (HHW) means any material generated in a household (including single and multiple residences) that would be classified as hazardous pursuant to K.A.R. 28-29-23b.

Illegal Discharge see illicit discharge below.

Illicit Discharge means any discharge to the storm drainage system that is prohibited under this Article.

Illicit Connection means any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drainage system.

Industrial Waste (or commercial waste) means any wastes produced as a by-product of any industrial, institutional or commercial process or operation, other than domestic sewage.

Mechanical Fluid means any fluid used in the operation and maintenance of

machinery, vehicles and any other equipment, including lubricants, antifreeze, petroleum products, oil and fuel.

Mobile Commercial Cosmetic Cleaning (or mobile washing) means power washing, steam cleaning, and any other method of mobile cosmetic cleaning, of vehicles and/or exterior surfaces, engaged in for commercial purposes or related to a commercial activity.

Municipal Separate Storm Sewer System (MS4) means the system of conveyances, including roads, streets, curbs, gutters, ditches, inlets, drains, catch basins, pipes, tunnels, culverts, channels, detention basins and ponds owned and operated by the City and designed or used for collecting or conveying stormwater, and not used for collecting or conveying sanitary sewage.

NPDES means the National Pollutant Discharge Elimination System.

NPDES Permit means a permit issued by EPA that authorizes the discharge of pollutants to Waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Notice of Violation means a written notice detailing any violations of this Article and any action expected of the violators.

Oil means any kind of oil in any form, including, but not limited to: petroleum, fuel oil, crude oil, synthetic oil, motor oil, cooking oil, grease, sludge, oil refuse, and oil mixed with waste.

Owner means the person who owns a facility, part of a facility, or land.

Person means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns, including all federal, state, and local governmental entities.

Pesticide means a substance or mixture of substances intended to prevent, destroy, repel, or migrate any pest.

Pet Waste (or Animal Waste) means excrement and other waste from domestic animals.

Petroleum Product means a product that is obtained from distilling and processing crude oil and that is capable of being used as a fuel or lubricant in a motor vehicle or aircraft, including motor oil, motor gasoline, gasohol, other alcohol blended fuels, aviation gasoline, kerosene, distillate fuel oil, and #1 and #2 diesel.

Pollutant means any substance attributable to water pollution, including but not limited to rubbish, garbage, solid waste, litter, debris, yard waste, pesticides, herbicides, fertilizers, pet waste, animal waste, domestic sewage, industrial waste, sanitary sewage, wastewater, septic tank waste, mechanical fluid, oil, motor oil, used oil, grease, petroleum products, antifreeze, surfactants, solvents, detergents, cleaning agents, paint, heavy metals, toxins, household hazardous waste, small quantity generator waste, hazardous substances, hazardous waste, soil and sediment.

Pollution means the alteration of the physical, thermal, chemical, or biological quality

of, or the contamination of, any water that renders the water harmful, detrimental, or injurious to humans, animal life, plant life, property, or public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

Potable Water means water that has been treated to drinking water standards and is safe for human consumption.

Private Drainage System means all privately or publicly owned ground, surfaces, structures or systems, excluding the MS4, that contribute to or convey stormwater, including but not limited to, roofs, gutters, downspouts, lawns, driveways, pavement, roads, streets, curbs, gutters, ditches, inlets, drains, catch basins, pipes, tunnels, culverts, channels, detention basins, ponds, draws, swales, streams and any ground surface.

Public Improvement Plans means engineering drawings subject to approval by the City Engineer for the construction of public improvements.

Qualified Person means a person who possesses the required certification, license, or appropriate competence, skills, and ability as demonstrated by sufficient education, training, and/or experience to perform a specific activity in a timely and complete manner consistent with the regulatory requirements & generally accepted industry standards for such activity.

Release means to dump, spill, leak, pump, pour, emit, empty, inject, leach, dispose or otherwise introduce into the storm drainage system.

Rubbish means non-putrescible solid waste, excluding ashes, that consist of: (A) combustible waste materials, including paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, and similar materials; and (B) noncombustible waste materials, including glass, crockery, tin cans, aluminum cans, metal furniture, and similar materials that do not burn at ordinary incinerator temperatures (1600 to 1800 degrees Fahrenheit).

Sanitary Sewage means the domestic sewage and/or industrial waste that is discharged into the City sanitary sewer system and passes through the sanitary sewer system to the City sewage treatment plant for treatment.

Sanitary Sewer means the system of pipes, conduits, and other conveyances which carry industrial waste and domestic sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, to the City sewage treatment plant (and to which stormwater, surface water, and groundwater are not intentionally admitted).

Sediment means soil (or mud) that has been disturbed or eroded and transported naturally by water, wind or gravity, or mechanically by any person.

Septic Tank Waste means any domestic sewage from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks and aerated tanks.

Shall means mandatory; may means discretionary.

Site means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

Small Quantity Generator Waste means any hazardous waste generated by a small quantity generator as defined in K.A.R. 28-31-2.

Solid Waste means any garbage, rubbish, refuse and other discarded material, including solid, liquid, semisolid, or contained gaseous material, resulting from industrial, municipal, commercial, construction, mining or agricultural operations, and residential, community and institutional activities.

State means The State of Kansas.

Storm Drainage System means all surfaces, structures and systems that contribute to or convey stormwater, including private drainage systems, the MS4, surface water, groundwater, Waters of the State and Waters of the United States.

Stormwater means runoff resulting from precipitation.

Stormwater Pollution Prevention Plan (SWP3) means a document that describes the Best Management Practices to be implemented at a site, to prevent or reduce the discharge of pollutants.

Subdivision Development includes activities associated with the platting of any parcel of land into two or more lots and includes all construction activity taking place thereon.

Surface Water means water bodies and any water temporarily residing on the surface of the ground, including oceans, lakes, reservoirs, rivers, ponds, streams, puddles, channelized flow and runoff.

Uncontaminated means not containing harmful quantities of pollutants.

Used Oil (or Used Motor Oil) means any oil that as a result of use, storage, or handling, has become unsuitable for its original purpose because of impurities or the loss of original properties.

Utility Agency means private utility companies, City departments or contractors working for private utility companies or City departments, engaged in the construction or maintenance of utility distribution lines and services, including water, sanitary sewer, storm sewer, electric, gas, telephone, television and communication services.

Wastewater means any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

Water of the State (or water) means any groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, inside the territorial limits of the State, and all other bodies of surface water, natural or artificial, navigable or non-navigable, and including the beds and banks of all water courses and bodies of surface water, that are wholly or partially inside or bordering the State or inside the jurisdiction of the State.

Water Quality Standard means the designation of a body or segment of surface water in the State for desirable uses and the narrative and numerical criteria deemed by State or Federal regulatory standards to be necessary to protect those uses.

Waters of the United States means all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and the flow of the tide; all interstate waters, including interstate wetlands; all other waters the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce; all impoundments of waters otherwise defined as waters of the United States under this definition; all tributaries of waters identified in this definition; all wetlands adjacent to waters identified in this definition; and any waters within the federal definition of “waters of the United States” at 40 CFR Section 122.2; but not including any waste treatment systems, treatment ponds, or lagoons designed to meet the requirements of the Federal Clean Water Act.

Wetland means any area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Yard Waste means leaves, grass clippings, tree limbs, brush, soil, rocks or debris that result from landscaping, gardening, yard maintenance or land clearing operations.

9-902

PROHIBITIONS AND REQUIREMENTS.

(A) Prohibitions.
(Ord. 7373)

- (1) No person shall *release* or cause to be released into the *storm drainage system* any *discharge* that is not composed entirely of *uncontaminated stormwater*, except as allowed in Section 9-902(B). Common stormwater contaminants include trash, yard waste, lawn chemicals, pet waste, wastewater, oil, petroleum products, cleaning products, paint products, hazardous waste and sediment.
- (2) Notwithstanding the provisions of Section 9-902(B), any discharge shall be prohibited by this Section if the discharge in question has been determined by the Director to be a source of pollutants to the storm drainage system.
- (3) The construction, use, maintenance or continued existence of illicit connections to the storm drain system are prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (4) No person shall connect a line conveying sanitary sewage, domestic sewage or industrial waste, to the storm drainage system, or allow such a connection to continue.
- (5) No person shall maliciously destroy or interfere with BMP's implemented pursuant to this Article.

(B) Exemptions.

The following non-stormwater discharges are deemed acceptable and not a violation of this Section: (Ord. 7373)

- (1) A discharge authorized by an NPDES permit other than the NPDES permit for discharges from the MS4;
- (2) Uncontaminated waterline flushing and other infrequent discharges from potable water sources;
- (3) Infrequent uncontaminated discharge from landscape irrigation or lawn watering;
- (4) Discharge from the occasional non-commercial washing of vehicles on properties zoned RS-1 or RS-2;
- (5) A discharge of swimming pool water in compliance with Ordinance 7094 and Chapter 19, Article 11 of the Lawrence City Code;
- (6) Uncontaminated discharge from foundation, footing or crawl space drains, sump pumps and air conditioning condensation drains;
- (7) Uncontaminated groundwater, including rising groundwater, groundwater infiltration into storm drains, pumped groundwater and springs;
- (8) Diverted stream flows and natural riparian habitat or wetland flows;
- (9) A discharge or flow of fire protection water that does not contain oil or hazardous substances or materials.

(C) Requirements Applicable to Certain Dischargers.
(Ord. 7373)

- (1) Private Drainage System Maintenance. The owner of any private drainage system shall maintain the system to prevent or reduce the discharge of pollutants. This maintenance shall include, but is not limited to, sediment removal, bank erosion repairs, maintenance of vegetative cover, and removal of debris from pipes and structures.
- (2) Minimization of Irrigation Runoff. A discharge of irrigation water that is of sufficient quantity to cause a concentrated flow in the storm drainage system is prohibited. Irrigation systems shall be managed to reduce the discharge of water from a site.
- (3) Cleaning of Paved Surfaces Required. The owner of any paved parking lot, street or drive shall clean the pavement as required to prevent the buildup and discharge of pollutants. The visible buildup of mechanical fluid, waste materials, sediment or debris is a violation of this ordinance. Paved surfaces shall be cleaned by dry sweeping, wet vacuum sweeping, collection and treatment of wash water or other methods in compliance with this Article. This section does not apply to pollutants discharged from construction activities, which are regulated by Section 9-903.
- (4) Mobile commercial cosmetic cleaning operations shall not

discharge to the storm drainage system in violation of this Article.

- (5) Maintenance of Equipment. Any leak or spill related to equipment maintenance in an outdoor, uncovered area shall be contained to prevent the potential release of pollutants. Vehicles, machinery and equipment must be maintained to reduce leaking fluids.
 - (6) Materials Storage. In addition to other requirements of this Code, materials shall be stored to prevent the potential release of pollutants. The uncovered, outdoor storage of unsealed containers of hazardous substances is prohibited.
 - (7) Pet Waste. Pet waste shall be disposed of as solid waste or sanitary sewage in a timely manner, to prevent discharge to the storm drainage system.
 - (8) Pesticides, Herbicides and Fertilizers. Pesticides, herbicides and fertilizers shall be applied in accordance with manufacturer recommendations and applicable laws. Excessive application shall be avoided.
 - (9) Prohibition on Use of Pesticides and Fungicides Banned from Manufacture. Use of any pesticide, herbicide or fungicide, the manufacture of which has been either voluntarily discontinued or prohibited by the Environmental Protection Agency, or any Federal, State or City regulation is prohibited.
 - (10) Open Drainage Channel Maintenance. Every person owning or occupying property through which an open drainage channel passes shall keep and maintain that part of the drainage channel within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or retard the flow of water through the drainage channel. In addition, the owner or occupant shall maintain existing privately owned structures adjacent to a drainage channel, so that such structures will not become a hazard to the use, function, or physical integrity of the drainage channel.
- (D) Release Reporting and Cleanup.
Any person responsible for a known or suspected release of materials which are resulting in or may result in illegal discharges to the storm drainage system shall take all necessary steps to ensure the discovery, containment, abatement and cleanup of such release. In the event of such a release of a hazardous material, said person shall comply with all state, federal, and local laws requiring reporting, cleanup, containment, and any other appropriate remedial action in response to the release. In the event of such a release of non-hazardous materials, said person shall notify the Director no later than 5:00 p.m. of the next business day. (Ord. 7373)
- (E) Authorization to Adopt and Impose Best Management Practices.
The City may adopt and impose requirements identifying Best Management Practices for any activity, operation, or facility, which may cause a discharge of pollutants to the storm drainage system. Where specific BMP's are required, every person undertaking such activity or operation, or owning or operating such facility shall implement and maintain these BMP's at their

own expense. (Ord. 7373)

9-903

STORMWATER DISCHARGES FROM CONSTRUCTION ACTIVITIES.

(A) General Requirements for Construction Sites.
(Ord. 7373)

- (1) The owner of a site of construction activity shall be responsible for compliance with the requirements of Section 9-903(A).
- (2) Waste Disposal. Solid waste, industrial waste, yard waste and any other pollutants or waste on any construction site shall be controlled through the use of Best Management Practices. Waste or recycling containers shall be provided and maintained by the owner or contractor on construction sites where there is the potential for release of waste. Uncontained waste that may blow, wash or otherwise be released from the site is prohibited.
- (3) Ready-mixed concrete, or any materials resulting from the cleaning of vehicles or equipment containing or used in transporting or applying ready-mixed concrete, shall be contained on construction sites for proper disposal. Release of these materials is prohibited.
- (4) Erosion and Sediment Control. Best Management Practices shall be implemented to prevent the release of sediment from construction sites. Disturbed areas shall be minimized, disturbed soil shall be managed and construction site entrances shall be managed to prevent sediment tracking. Excessive sediment tracked onto public streets shall be removed immediately if the sediment presents a traffic hazard or public safety concern.
- (5) Upon completion of permitted construction activity on any site, the property owner and subsequent property owners will be responsible for continued compliance with the requirements of Section 9-903(A), in the course of maintenance, reconstruction or any other construction activity on the site.

(B) Construction Sites Requiring an Approved SWP3.

This section applies to all construction sites excluding subdivision developments. Where construction on a site will disturb soil or remove vegetation on one (1) or more acres of land during the life of the construction project, an approved Stormwater Pollution Prevention Plan (SWP3) for the project must be provided and implemented by the construction site owner as follows: (Ord. 7373, Ord. 9491)

- (1) The area disturbed shall be assumed to include the entire property area unless all applicable plans specifically exclude certain areas from disturbance.
- (2) The SWP3 must be provided by the owner and submitted to the City for approval. Two copies of the SWP3 shall be submitted to the the Municipal Services and Operations Department, Stormwater Engineer. For sites subject to plan review by the Planning Office, the plan will not be released for construction until an approved SWP3 has been obtained.

- (3) The preparation and implementation of the SWP3 must comply with Section 9-903(D).
 - (4) The Director will review the SWP3 submitted for the site and will return either a letter of SWP3 approval or a request for revisions within 14 days of submission of the SWP3. Construction activity, including any soil disturbance or removal of vegetation, shall not commence on the site until the Director has issued a letter of SWP3 approval.
 - (5) The owner bears the responsibility for implementation of the SWP3 and notification of all contractors and utility agencies on the site.
- (C) Subdivision Developments Requiring an Approved SWP3.
- Where construction of a subdivision development will disturb soil or remove vegetation on one (1) or more acres of land during the life of the development project, approved Stormwater Pollution Prevention Plans (SWP3's) for the project must be provided and implemented by the subdivision owner as follows: (Ord. 7373)
- (1) The area disturbed shall be assumed to include the entire platted area.
 - (2) SWP3's must be provided by the subdivision owner and included in Public Improvement Plans submitted to the City Engineer for the development.
 - (3) The preparation and implementation of all SWP3's must comply with Section 9-903(D).
 - (4) SWP3's must be provided for all phases of development, including sanitary sewer construction, storm drainage system construction, waterline, street and sidewalk construction, general grading and the construction of individual homes. The subdivision owner will not be required to provide an SWP3 for the activities of utility agencies within the subdivision. Utility construction is addressed in Section 9-903(E).
 - (5) Approval of Public Improvement Plans by the City Engineer will constitute approval by the Director of the included SWP3. Construction activity, including any soil disturbance or removal of vegetation, shall not commence until the Public Improvement Plans are approved for the development.
 - (6) The subdivision owner shall provide a copy of the approved SWP3's to all utility agencies prior to their working within the subdivision.
 - (7) The subdivision owner bears the responsibility for implementation of the approved SWP3's for all construction activity within the development, excluding construction under the control of subsequent owners of individual lots and construction managed by utility agencies.

- (8) The subsequent owner of an individual lot bears the responsibility for continued implementation of the approved SWP3's for all construction activity within or related to the individual lot, excluding construction managed by utility agencies.

- (D) Stormwater Pollution Prevention Plans.
Preparation and implementation of Stormwater Pollution Prevention Plans for construction activity shall comply with the following: (Ord. 7373)

Preparation

- (1) The SWP3 shall be prepared under the direction of a qualified person, as defined in 9-901 (D).
- (2) The SWP3 shall provide the name, address and phone number of the project owner for purposes of correspondence and enforcement.
- (3) The SWP3 shall identify existing natural resources such as streams, forest cover and other established vegetative cover.
- (4) The SWP3 shall specify and provide detail for all BMP's necessary to meet the requirements of this Article, including any applicable BMP's that have been adopted and imposed by the City.
- (5) The SWP3 shall specify when each BMP will be installed, and for how long it will be maintained within the construction sequence. Multiple plans may be required for major phases of construction such as rough grading, building construction and final grading.
- (6) The SWP3 shall delineate all anticipated disturbed areas and specify the vegetative cover that must be established in those areas to achieve final stabilization.

Implementation

- (7) BMP's shall be installed and maintained by qualified persons. The owner or their representative shall be able to provide upon the Director's request a copy of the SWP3 on site within one hour during construction activity, or within the next business day for periods of inactivity, and shall be prepared to respond to unforeseen maintenance of specific BMP's.
- (8) The owner or their representative shall inspect all BMP's at least once per month and within the next business day after a rainfall of one quarter of an inch or more as measured at the site or generally reported in the Lawrence area.
- (9) Based on inspections performed by the owner or by authorized City personnel, modifications to the SWP3 will be necessary if at any time the specified BMP's do not meet the objectives of this Article. In this case, the owner shall meet with authorized City personnel to determine the appropriate modifications. All modifications shall be completed within seven (7) days of the referenced inspection, and shall be recorded on the owner's copy of the SWP3.

- (E) Requirements for Utility Construction.
(Ord. 7373)
- (1) Utility agencies shall be responsible for compliance with the requirements of Section 9-903(E).
 - (2) Utility agencies shall develop and implement Best Management Practices (BMP's) to prevent the discharge of pollutants on any site of utility construction within the City. In addition, the City may adopt and impose BMP's on utility construction activity.
 - (3) Utility agencies shall implement BMP's to prevent the release of sediment from utility construction sites. Disturbed areas shall be minimized, disturbed soil shall be managed and construction site entrances shall be managed to prevent sediment tracking. Excessive sediment tracked onto public streets shall be removed immediately if the sediment presents a traffic hazard or public safety concern.
 - (4) Prior to entering a construction site or subdivision development, utility agencies shall have obtained from the owner a copy of any SWP3's for the project. Any disturbance to BMP's resulting from utility construction shall be repaired immediately by the utility company in compliance with the SWP3.

9-904

ENFORCEMENT.

- (A) Submissions from the General Public.
Members of the General Public may submit information pertaining to this Article to the City of Lawrence, the Municipal Services and Operations Department. The Director will consider such submissions as they pertain to the implementation and enforcement of this Article and will provide written or verbal response to the person submitting the information. (Ord. 7373)
- (B) Enforcement Personnel Authorized.
The following personnel employed by the City shall have the power to issue Notices of Violations and implement other enforcement actions under this Article as provided by Charter Ordinance No. 31 of the City of Lawrence: (Ord. 7373)
- (1) All authorized personnel under the supervision of the Director of the Municipal Services and Operations Department.
 - (2) All inspectors under the supervision of the Director of Neighborhood Resources.
 - (3) All health officers that are authorized representatives of the Director of the Lawrence – Douglas County Health Department.
- (C) Right of Entry and Sampling.
(Ord. 7373)
- (1) Whenever the Director has cause to believe that there exists, or potentially exists, in or upon any premises any condition which

constitutes a violation of this Article, the Director shall have the right to enter the premises at any reasonable time to determine if the discharger is complying with all requirements of this article. In the event that the owner or occupant refuses entry after a request to enter has been made, the City is hereby empowered to seek assistance from a court of competent jurisdiction in obtaining such entry.

- (2) The Director shall have the right to set up on the property of any discharger to the storm drainage system such devices that are necessary to conduct sampling of discharges.

(D) Notice of Violation.
(Ord. 7373)

- (1) Whenever an authorized enforcement person determines that a person has violated a prohibition or failed to meet a requirement of this Article, the enforcement person will order compliance by written Notice of Violation to the responsible person.
- (2) The Notice of Violation shall identify:
 - (a) The name of the responsible person
 - (b) The date and location of the violation
 - (c) A description of the violation
 - (d) Actions that must be taken by the responsible person to remedy the violation
 - (e) The deadline within which the required actions must be completed
 - (f) Enforcement actions that may be taken by the City
- (3) Any person receiving a Notice of Violation may appeal the Notice to the Director. The written appeal must be received by the Director within 15 days of the Notice date. The Director will affirm, modify or rescind the Notice in writing, within 15 days of the date of the appeal.
- (4) Any person aggrieved by the decision of the Director may appeal the decision to the City Commission by submitting a written appeal to the City Manager's Office within 15 days of the date of the Director's written decision. A hearing on the appeal will be scheduled before the City Commission. The decision of the City Commission shall be final.

(E) Action without Prior Notice.

Any person who violates a prohibition or fails to meet a requirement of this Article will be subject, without prior notice, to one or more of the enforcement actions identified in 9-904 (F), when attempts to contact the person have failed and the enforcement actions are necessary to stop an actual or threatened discharge which presents or may present imminent

danger to the environment, or to the health or welfare of persons, or to the storm drainage system. (Ord. 7373)

(F) Enforcement Actions.

Any person who fails to comply with or appeal a Notice of Violation, or fails to comply with an appeal decision of the City Commission, will be subject to one or more of the following enforcement actions: (Ord. 7373)

- (1) Stop Work Order. The Director may issue a Stop Work Order to the owner and contractors on a construction site, by posting the order at the construction site and distributing the order to all City departments whose decisions may affect any activity at the site. Unless express written exception is made, the Stop Work Order shall prohibit any further construction activity at the site and shall bar any further inspection or approval necessary to commence or continue construction or to assume occupancy at the site. A Notice of Violation shall accompany the Stop Work Order, and shall define the compliance requirements.
- (2) Abatement of an Illicit Connection. The Director may order City representatives to terminate an illicit connection to the MS4. Any expense related to such abatement by City representatives shall be fully reimbursed by the property owner.
- (3) Abatement of a Violation on Private Property. When a property owner is not available, not able or not willing to correct a violation, the Director may order City representatives to enter private property to take any and all measures necessary to abate the violation. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow City representatives to enter upon the premises for these purposes. Any expense related to such abatement by City representatives shall be fully reimbursed by the property owner.
- (4) Recovery of Costs. Within 30 days after abatement by City representatives, the Director shall notify the property owner of the costs of abatement, including administrative costs, and the deadline for payment. The property owner may protest the assessment before the City Commission. The written protest must be received by the City Manager's Office within 15 days of the date of the notification. A hearing on the matter will be scheduled before the City Commission. The decision of the City Commission shall be final. If the amount due is not paid within the protest period or within 10 days of the decision of the City Commission, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. A copy of the resolution shall be turned over to the County Clerk so that the Clerk may enter the amounts of the assessment against the parcel as it appears on the current assessment roll, and the Treasurer shall include the amount of the assessment on the bill for taxes levied against the parcel of land.
- (5) Termination of Utility Services. After lawful notice to the customer and property owner concerning the proposed disconnection, the Director shall have the authority to order the disconnection of City

water, sanitary sewer and/or sanitation services, upon a finding by the Director that the disconnection of utility services will remove a violation of this Article that poses a public health hazard or environmental hazard.

(6) Performance Bonds. Where necessary for the reasonable implementation of this Article, the Director may, by written notice, order any owner of a construction site or subdivision development to file a satisfactory bond, payable to the City, in a sum not to exceed a value determined by the Director to be necessary to achieve consistent compliance with this Article. The City may deny approval of any building permit, subdivision plat, site development plan, or any other City permit or approval necessary to commence or continue construction or to assume occupancy, until such a performance bond has been filed. The owner may protest the amount of the performance bond before the City Commission. The written protest must be received by the City Manager's Office within 15 days of the date of the notification. A hearing on the matter will be scheduled before the City Commission. The decision of the City Commission shall be final.

(7) Criminal Prosecution. Any person who violates or continues to violate a prohibition or requirement of this Article shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to criminal penalties.

(G) Criminal Penalties.

The violation of any provision of this Article shall be deemed a municipal offense. Any person violating this Article shall, upon an adjudication of guilt or a plea of no contest, be fined a minimum of \$250.00 to a maximum of \$1,500.00. Each separate day on which a violation is committed or continues shall constitute a separate offense. The municipal court judge shall have no authority to suspend all or a portion of the minimum fine. (Ord. 7373)

(H) Other Legal Action.

Notwithstanding any other remedies or procedures available to the City, if any person discharges into the storm drainage system in a manner that is contrary to the provisions of this Article, the City Attorney may commence an action for appropriate legal and equitable relief including damages and costs in the District Court of Douglas County. The City Attorney may seek a preliminary or permanent injunction or both which restrains or compels the activities on the part of the discharger. (Ord. 7373)

9-905

IMPLEMENTATION.

(A) SWP3 Requirements Effective.

The requirements of 9-903 (B) and 9-903 (C) shall be effective as follows: (Ord. 7373)

(1) Prior to September 1, 2001: These sections are not effective and do not apply to any construction projects.

(2) On or after September 1, 2001 and prior to March 10, 2003: These sections are effective with the exception that they apply only to

sites and developments where construction will disturb soil or remove vegetation on five (5) or more acres of land during the life of the project, including projects started prior to this period.

- (3) On or after March 10, 2003: These sections are fully effective and apply to projects started prior to this date.

9-906

SEVERABILITY.

If any provision of this Article is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall remain in full force and effect. (Ord. 7373)

ARTICLE 10. PORTABLE TOILETS

9-1001

DEFINTIONS. For the purposes of this Article the following terms have the following definitions: (Ord. 8560)

- (A) "Person" shall mean any individual, individuals, corporation, partnership, unincorporated association, other business organization, committee, board, trustee, receiver, agent or other representative who has charge, care, control or responsibility for maintenance of any premises, regardless of status as owner, renter, tenant or lessee, whether or not in possession.
- (B) "Portable toilets" means one or more commercially manufactured or assembled toilet facility that is portable and is not designed or intended for connection to a sewer system with a standard connection. Portable toilets shall include, but not be limited to, water flush toilets or chemical toilets that have a water tight, impervious pail or tank containing a chemical solution placed immediately beneath the seat or urinal and a pipe or conduit connecting the riser with the tank.
- (C) "Site" means any property or properties, consisting of one or more lots, whether developed or undeveloped that make up an individual location. Examples of a site include but are not limited to a parking lot or lots, a business location consisting of one or more buildings, and a residential property consisting of one or more lots.
- (D) "Use" means the presence of one or more portable toilets on a site which are intended for use, even if not actually being used. This would include periods when the toilets are on site but not accessible for security or maintenance periods. The storage of portable toilets at a commercial facility or business that is in the business of providing and servicing portable toilets is not considered a use under this Article.

9-1002

USES.

(Ord. 8560)

- (A) Nothing in this Article shall prohibit any use of portable toilets contained within a recreational vehicle or required by federal, state or local law.
- (B) Unless otherwise authorized by federal, state or local law, it shall be unlawful to use portable toilets on single or multi-dwelling residentially zoned property except as provided for herein.

1. The use of portable toilets shall be allowed in the following circumstances and subject to the following limitations:
 - a. On all City, County, School District, University or State owned property.
 - b. On all property granted a City Temporary Special Event or Right-of-Way Permit.
 - c. On all property for a period beginning one day before each scheduled University of Kansas football game held at Memorial Stadium and ending on the Monday immediately following the scheduled football game. If the football games held at Memorial Stadium are scheduled on consecutive weekends, then portable toilets shall be allowed to remain until the Monday immediately following the last consecutive scheduled football game. All portable toilets shall be removed no later than the Monday immediately following the scheduled football game.
 - d. On property with construction projects subject to Planning and Development Services development reviews or permits that:
 - i. Do not have existing on-site sanitary sewer facilities; and
 - ii. Have written proof of a service contract with a disposal contractor;
 - e. On the camp property of Lawrence Hidden Valley Committee Incorporated commonly known as 3420 Bob Billings Parkway, Lawrence, Douglas County, Kansas.
 - f. In addition to that granted in 9-1002(B)(1)(c) above, portable toilets are permitted on all property used for residential uses, as defined by the Land Development Code, for up to four consecutive days and only two times per calendar year. Requests for the use of portable toilets beyond the duration established in this subsection may only be granted by the Director of Planning and Development Services or designee where the Director or designee finds that the criteria of this Article are upheld. Appeals of the Director's decision may be made to the City Commission.
 - g. On property with approved nonresidential use(s) as defined by the Land Development Code.

9-1003

MAINTENANCE REQUIREMENTS.
(Ord. 8560)

- (A) It is the responsibility of the person responsible for the site where portable toilets are located to ensure compliance with the maintenance requirements in this section. For Temporary Special Events that obtain a permit from the city, it is the event coordinator's responsibility to ensure compliance with the maintenance requirements in this section.
- (B) The following maintenance requirements shall apply to all uses of portable

toilets:

1. Portable toilets must be in good working condition without any broken surfaces or leaks. Doors must be in good working condition and must be able to be securely latched while in use. The toilet(s) must be monitored and/or permanently secured from use when not in active use. The toilet(s) shall be serviced by a disposal contractor that shall provide periodic inspections and pump outs as necessary and must be immediately serviced by a disposal contractor if the holding tank becomes full during the period of use.
2. For all uses, in addition to the other requirements of this section, the following shall apply to the use of portable toilets. Portable toilet(s) shall be located on the site so as to be free from obstruction from, nor present an obstruction to, existing structures or driveways. The toilet(s) shall be located in such a manner as to not be potentially impacted by site conditions such as slopes, ditches, or prevailing winds. Portable toilet(s) shall be located to provide the maximum practical screening from roads and adjacent properties as the site allows.
3. It is the person's/event operator's responsibility to ensure that toilet(s) are not used in a dangerous or inappropriate manner, especially by children. This may be accomplished by monitoring or securing the toilet(s) from use during periods of inactivity, such as night time and weekend hours, or by other effective means as appropriate.

9-1004

UNLAWFUL ACTS, PENALTY.

It shall be unlawful for any person to violate any requirement of this Article. In the event that a violation of this Article would also be a violation of another provision of the City Code, the violation shall be punished as would a violation of such other provision. All other violations shall be punished by a fine not to exceed \$500 or incarceration not to exceed 30 days or both such fine and incarceration. Each day or portion thereof that a violation remains uncorrected after receiving notice of the violation from the City constitutes a separate violation of this Article. (Ord. 8560)

9-1005

NOTICE OF VIOLATION.

(Ord. 8560)

- (A) The building official is authorized to serve a notice of violation or order on the person responsible for the violation of the provisions of this Article. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.
- (B) The notice of violation shall be served in either of the following ways:
 1. A copy of the notice of violation shall be conspicuously posted on the property where the violation is alleged to exist. In the case of property containing a structure, posting a door hanger on a main entrance to the structure shall be considered conspicuous posting. In addition, a copy of the notice of violation shall be mailed, postage prepaid, to such person at his or her last known address.
 2. A copy of the notice of violation may be mailed by certified mail,

postage prepaid, return receipt requested to such person at his or her last known address.

(C) The notice of violation shall state:

1. The condition that has caused the violation of this Article; and
2. That the person in violation shall have Two (2) days from the date of the service of the notice of violation to alleviate the violation.
3. That failure to alleviate each condition within the time period provided may result in prosecution under this Article, and/or, abatement of the condition by the City according to Chapter IX, Article 2, Section 9-203 and amendments thereto, with the costs assessed against the person according to Chapter IX, Article 2, Section 9-204 and amendments thereto.

9-1006

PROSECUTION OF VIOLATION.

If the notice of violation is not complied with in accordance with 9-1005, the building official is authorized to request the legal counsel of the jurisdiction to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this Article or of the order or direction made pursuant thereto. (Ord. 8560)

9-1007

AUTHORITY TO ISSUE NOTICE TO APPEAR.

Pursuant to the authority of Charter Ordinance No. 31, the inspector personnel of the Planning and Development Services Department are hereby authorized to issue Notice to Appear citations for alleged violations of the provisions of Chapters IX, Article 10 of the Code of the City of Lawrence, Kansas, and amendments thereto. (Ord. 8560)

9-1008

SEVERABILITY.

If any section, clause, sentence, or phrase of this article is found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining parts of this ordinance. (Ord. 8560)

ARTICLE 11. SINGLE-USE DISPOSABLE PLASTIC BAGS

9-1101

PURPOSE.

The Governing Body finds that, in order to advance the health, safety, and welfare of the residents of the City of Lawrence, Kansas, as well as the environment, it is necessary to regulate certain activities within the City, including the use of single-use disposable plastic bags.

9-1102

DEFINITIONS.

The following words, terms, and phrases, when used in this Article, shall, except where the context clearly indicates otherwise, have the following meanings:

- (a) **“Consumer”** shall mean any person who purchases or accepts food, beverages, goods, or merchandise for consumption or for use.
- (b) **“Establishment”** shall mean any sole proprietorship, organization, corporation, or other entity, however organized, engaging in the commercial sale or distribution of perishable or non-perishable items to Consumers. The

term Establishment includes all commercial vendors of food, beverages, goods, or merchandise.

- (c) **“Produce Bag”** and **“Product Bag”** shall mean any disposable plastic bag used exclusively to carry produce, meats, fish or seafood, frozen foods, breads, pastries, nuts, candy, flowers, prepared foods, jewelry, and bulk items from their location within an Establishment to the point of sale or distribution. Such Produce Bags or Product Bags are used to prevent damage or contamination from other items and are then placed within a Reusable Bag or within a single-use disposable paper bag for transporting food, beverages, goods, or merchandise from the point of departure of the Establishment.
- (d) **“Reusable Bag”** shall mean any bag, whether made of cloth, fiber, plastic, or other material, that is specifically designed and manufactured for the repeated use of transporting food, beverages, goods, or merchandise from an Establishment. If made of plastic, a Reusable Bag must contain at least 40% post-consumer recycled content and must measure at least 4.0 mils in thickness. The plastic Reusable Bags must be labeled with the post-consumer recycled content percentage, the mil thickness, and the word “reusable” on the bag.
- (e) **“Single-use Disposable Plastic Bag”** shall mean any plastic bag, less than 4.0 mils in thickness, with or without handles, provided to a Consumer by an Establishment at a check-out stand, cash register, point of sale or distribution, or other point of departure for the purpose of transporting food, beverages, goods, or merchandise from the Establishment. The term Single-use Disposable Plastic Bag does not include Produce Bags, Product Bags, or Reusable Bags, as those terms are defined herein.

9-1103 SINGLE-USE DISPOSABLE PLASTIC BAGS PROHIBITED.

Unless otherwise exempted under this Article, the use of Single-use Disposable Plastic Bags is hereby prohibited within the City limits.

9-1104 UNLAWFUL CONDUCT.

It shall be unlawful for any person, who owns, manages, operates, or otherwise controls an Establishment, to provide or permit to be provided to any Consumer, at a check-out stand, cash register, point of sale or distribution, or other point of departure, any Single-use Disposable Plastic Bag, for the purpose of enabling the Consumer to transport from the Establishment food, beverages, goods, or merchandise.

9-1105 ENFORCEMENT.

The Director of Planning and Development Services, or designee ("Code Official"), shall be responsible for enforcing the provisions of this Article. However, nothing in this section shall be construed to prohibit any other person who would otherwise be lawfully entitled to enforce the provisions of this Article from taking enforcement action under this Article.

9-1106 WARNING.

If the Code Official has probable cause to believe that an Establishment is in violation of the provisions of this Article and that Establishment has not previously been cited or given a warning for violation of the provisions of the Article, then the Code Official shall issue a Warning to the Establishment. The Warning shall be dated, shall summarize the facts of the alleged violation, shall give the

Establishment seven days to come into compliance with this Article, shall warn the Establishment that any future violation may result in the prosecution of any person who owns, manages, operates, or otherwise controls the Establishment, and shall be signed by the Code Official. The Code Official shall retain a copy of the Warning in the Code Official's files.

- (a) For the purposes herein, the term "probable cause" shall mean evidence, if reviewed by a reasonable person, from which a reasonable person could conclude that a person has violated the provisions of this Article.

9-1107

MUNICIPAL OFFENSE.

Engaging in any violation of the provisions of this Article shall be a municipal offense. Any person, who owns, manages, operates, or otherwise controls an Establishment previously having received a warning, shall, upon an adjudication of guilt or the entry of a plea of no contest, be subject:

- (a) to a maximum fine of \$100.00 upon first conviction;
- (b) to a maximum fine of \$200.00 upon second conviction, occurring within one calendar year of the first conviction; and
- (c) to a maximum fine of \$500.00 upon third or any subsequent conviction, occurring within one calendar year of the first conviction.

9-1108

REUSABLE BAGS; SINGLE-USE DISPOSABLE PAPER BAGS

- (a) An Establishment may provide to any Consumer, at a check-out stand, cash register, point of sale or distribution, or other point of departure, Reusable Bags -- free of charge, for sale, or upon deposit -- for the purpose of enabling the Consumer to transport from the Establishment food, beverages, goods, or merchandise. The City strongly encourages the use of Reusable Bags.
- (b) An Establishment may provide to any Consumer, at a check-out stand, cash register, point of sale or distribution, or other point of departure, single-use disposable paper bags for the purpose of enabling the Consumer to transport from the Establishment food, beverages, goods, or merchandise. Permitted single-use disposable paper bags include **only** those paper bags containing at least 40% post-consumer recycled content. The single-use disposable paper bags must be labeled with the post-consumer recycled content percentage.

9-1109

EXEMPTIONS.

The prohibition against the use of Single-use Disposable Plastic Bags shall not apply to the following:

- (a) Religious and charitable institutions, except when engaged in the commercial sale or distribution of perishable or non-perishable items to Consumers.
- (b) Schools, except when engaged in the commercial sale or distribution of perishable or non-perishable items to Consumers.
- (c) Not-for-profit organizations, except when engaged in the commercial sale or distribution of perishable or non-perishable items to Consumers.

- (d) Farmers' markets.
- (e) The sale of live animals, such as fish, insects, or the like.
- (f) Prescriptions.
- (g) Newspapers.
- (h) Laundry, dry cleaning, or garment bags.
- (i) Produce Bags or Product Bags.

9-1110

ADMINISTRATIVE REGULATIONS.

In order to protect the health, safety, and welfare of the community, the Governing Body shall have the power to promulgate, by resolution, Administrative Regulations governing the administration of this Article. (Ord. 9996)