

**Roeland Park City Council
Administrative Committee
Agenda
January 25, 2010**

1. Call to Order
2. Old Business
 - a. Chapter 16, Article 5 – Sign Ordinance
 - b. Finalize City Administrator Goals for 2010
3. New Business:
 - a. Jo Co 2007 Solid Waste Management Plan - Discussion
4. Other Matters:
5. Future Meeting Discussion:
 - a. Percent for Art - (at Arts Committee for review)
 - b. 27D Ballot Language discussion
6. Adjourn

ARTICLE 9. SIGN REGULATIONS

- 16-901 PURPOSE. The purpose of this Article is to create the framework for a comprehensive and balanced system of content- and viewpoint-neutral regulation of signs to facilitate easy and pleasant communication between people while protecting the First Amendment rights of resident individuals and businesses of the City and preserving and improving the quality of the City's environment by avoiding visual clutter harmful to traffic and pedestrian safety, property values, business opportunities, and community appearance. With these purposes in mind, it is the intent of these regulations:
- (a) to authorize the use of ~~signs~~Signs that are
 - (1) compatible with their surroundings,
 - (2) appropriate to the activity that displays them,
 - (3) expressive of the identity of individual activities and the community as a whole, and
 - (4) legible under the circumstances in which they are seen; and
 - (b) to ensure that ~~noneonforming signs~~Nonconforming Signs are eliminated in the City after a reasonable grace period that allows ~~sign~~Sign owners to recoup their initial investments in those ~~noneonforming signs.~~ (Ord. 625) Nonconforming Signs.
- 16-902 FINDINGS. The ~~governing body~~Governing Body hereby finds that:
- (a) Sign regulations may impact First Amendment rights and that these rights are important constitutional rights that must be protected;
 - (b) Unregulated signage has direct and secondary effects that are harmful to the safety and general welfare of the City as a whole and to its individual citizens;
 - (c) These direct and secondary effects result from the visual clutter that occurs as a result of the unregulated installation and lack of maintenance of ~~signs~~Signs;
 - (d) These direct and secondary effects include harm, to traffic and pedestrians' safety, depreciation of property values within the City, decreased business opportunities for individual and business residents of the City (resulting in decreased sales, property and other tax revenues that are necessary to provide an adequate level of public service to City residents), community blight, and an overall less pleasing community appearance;
 - (e) Because of these direct and secondary effects, the City has a compelling interest in regulating ~~signs~~Signs within the City;
 - (f) ~~These~~For the most part, these regulations are content- and viewpoint-neutral, reasonable time, manner and place restrictions that directly advance the City's stated interests;
 - (g) To the extent that certain provisions of these regulations are content-based, they are intended for further compelling governmental interests;
 - (h) ~~(g)~~ The scope of the regulations is proportionate to the interests served and narrowly tailored to achieve the desired objective;

- (i) ~~(h)~~ A direct nexus exists between the desired City's goals and the means chosen in these regulations to achieve its desired goals;
- (j) ~~(i)~~ The goals of this ordinance cannot be fully achieved if existing ~~signs~~Signs, which do not conform to the regulations contained herein, are allowed to remain as they exist on the effective date of this ordinance for an unlimited amount of time; therefore, a grace period of five and one half (5 1/2) years is hereby established to allow the owners of existing, ~~nonconforming signs~~Nonconforming Signs a reasonable period of time to conform these ~~signs~~Signs to the provisions of this ordinance or remove them, which grace period shall end on November 25, 1999;
- (k) ~~(j)~~ The strict application of this grace period to all ~~nonconforming signs~~Nonconforming Signs, in some unique situations, may be unreasonable and therefore this ordinance provides a procedure that allows the owners of certain ~~nonconforming signs~~Nonconforming Signs to establish that the strict application of the grace period would result in substantial loss to the owner of the ~~sign~~Sign and, therefore, that the grace period for a particular ~~sign~~Sign should be extended for a designated amount of time;
- (l) ~~(k)~~ The establishment of this grace period and the a procedure for extension of the grace period strikes a reasonable balance between the interest of the general public sought to be achieved by this ordinance and the interest of affected owners of ~~nonconforming signs~~Nonconforming Signs;
- (m) ~~(l)~~ Although the expression of political speech is an important constitutionally protected right, under certain circumstances, it may be necessary to regulate the time, place and manner of the expression of such speech in order to advance and protect other compelling legitimate interests of local government;
- (n) ~~(m)~~ ~~Political signs~~Temporary Signs have certain characteristics that distinguish them from many of the other types of ~~signs~~Signs permitted and regulated by the City. ~~These characteristics include, specifically including~~ the fact that many of these ~~signs, intended to be temporary in nature~~Signs, do not meet the regular structural and insulation requirements necessary to prevent them from being affected by weather and other natural forces and therefore present a potential hazard to persons and property. ~~Severe;~~ severe weather conditions, including, without limitation, thunderstorms with accompanying high winds, tornadoes, ice accumulation and flooding, are characteristic of local weather conditions;
- ~~(n) — The primary purpose of political signs placed along a roadway is to attract the attention of drivers, thus distracting them from their primary responsibility of paying constant attention to traffic and road conditions. This concern is especially acute in residential areas where young children present a significant potential hazard for drivers. With respect to residential areas, with their appropriately lower speed limits, it is concluded that the maximum sign surface area per face allowed is adequate to convey most political messages. Although it is recognized that~~

~~certain individuals may wish to express a political message that requires a larger sign surface area to be adequately conveyed, a larger sign surface area would further distract drivers' attention, presenting an unacceptable safety risk, and it is believed that there exist in the community adequate other means of conveying these messages. In nonresidential areas motorists frequently are guided by or reasonably expect to see larger signs, therefore their attention is not as easily distracted; higher speed limits, larger lot areas, and competing distractions require larger sign size to adequately convey political messages, and thus a larger sign size can be allowed consistent with safety requirements in these areas. Further, since permitted signage in residential areas is minimal, the aesthetic impact of signs in residential areas is much greater than in nonresidential areas;~~

- (o) ~~In addition to the safety and traffic interests affected by political signs, the governing body concludes that the unrestrictive proliferation of political signs creates visual clutter and blight, has an adverse effect on the aesthetic quality of the City (with accompanying adverse economic effects), and detracts from the desirable visual environment that the City has made a strong effort to create through its land use and other ordinance and regulations; and~~ A primary and compelling interest of the City is the ability of the City, other governmental entities and utilities to erect Official Signs and other warnings to protect the public without being subject to regulation;
- (p) ~~The governing body concludes that the interests to be protected by these regulations are sufficiently compelling to justify the content and viewpoint neutral regulation of political speech contained herein, and that it represents a reasonable accommodation of the City's interests and individual First Amendment rights. (Ord. 625)~~ A primary and compelling interest of the City is to allow property owners to display Legal Postings without being subject to regulation;
- (q) A primary and compelling interest of the City is to promote vehicular and pedestrian safety on private property by allowing Directional Signs to be posted without being subject to regulation;
- (r) A primary and compelling interest of the City is the safety and security from harm residents' families and homes, and Signs displaying the existence of home security systems and neighborhood watch programs serve that interest; and
- (s) A primary and compelling interest of the City is the ability of the police and fire departments to easily identify residents or addresses in emergency situations, and therefore the ability of residents and businesses to erect Identification Signs and Name Plate Signs serves that interest.

16-903

DEFINITIONS. For purposes of this Article, the following words and terms shall be defined as follows:

- (a) "A-Frame or Sandwich Sign" means any ~~sign~~ Sign supported from the ground utilizing one or more rear supporting braces, in which the combination of the sign and supports forms the letter "A," in the manner of a artist's easel.

- (b) "Abandoned Sign" means any ~~sign~~Sign on any building, structure or premises that has been vacated for a six (6) month period of time.
- (c) "Attention-Attracting Device" means a device with flashing, blinking, rotating, twirling or moving action, a changeable copy sign on which the message changes more than eight (8) times per day, but not including ~~time or temperature instruments~~, a search light, or a balloon or an air or gas filled object designed or intended to attract the attention of the public to an establishment or to a ~~sign~~Sign.
- (d) "Backlighting Sign" means any ~~sign~~Sign that displays direct or indirect light from the back of that ~~sign~~Sign through a transparent, translucent or open material.
- (e) "Banner" means any ~~sign~~Sign of lightweight fabric or similar material that is permanently mounted to a pole or a building by a permanent frame at one or more edges. National ~~flags~~, state or municipal flags, or the official flag of any institution or business shall not be considered a ~~banner~~Banner.
- ~~(f) "Building Marker" means any sign indicating the name of a building and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent surface.~~
- (f) ~~(g)~~ "Building Inspector" means the building official of the City of Roeland Park, Kansas, or other designated authority charged with the administration or enforcement of the provisions of this Article, or his or her duly authorized representatives.
- ~~(h) "Business Identification Sign" means any sign identifying or directing attention to the building, development, business, product, activity or service provided or offered on the premises.~~
- (g) ~~(i)~~ "Canopy Sign" means any ~~sign~~Sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A ~~marquee~~Marquee is not a canopy.
- ~~(j) "Center Identification Sign" means any sign identifying only the name and location of an entire development in a commercial, office or industrial zoning district developed or managed under one owner or under single control.~~
- (h) ~~(k)~~ "Changeable Copy Sign" means a ~~sign~~Sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the Sign Surface.
- (i) ~~(l)~~ "Code" means the Code of the City of Roeland Park, Kansas, as hereinafter amended.
- (j) ~~(m)~~ "Commercial Sign" means any ~~sign~~Sign that directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.
- ~~(n) "Commercial and Industrial Sales or Leasing Sign" means any sign identifying the building, structure, or premises upon which the sign is located as "now renting" or "now leasing" or "for sale."~~

- (k) ~~(e)~~ "Curb Line" means the line at the face of the curb nearest to the street or roadway. In the absence of a curb, the curb line shall be established by the ~~building inspector~~ Building Inspector.
- (l) ~~(p)~~ "Detached Sign" means a ~~sign~~ Sign located on the ground or on a structure located on the ground and not attached to a building.
- (m) ~~(q)~~ "Directional Sign" means any ~~sign that contains directions to a specific building, structure, use, or lot~~ Sign that provides direction for the safe and efficient flow of vehicular or pedestrian traffic on a property, and shall include signs marking entrances, exits, parking areas, loading areas or other operational features of the premises.
- (n) ~~(r)~~ "Directly Illuminated Sign" means any ~~sign~~ Sign the source of illumination of which is exposed to the human eye, such as, but not limited to, an incandescent bulb or fluorescent tube.
- (o) ~~(s)~~ "Holiday Decorations" means displays erected on a seasonal basis in observance of religious, national or state holidays that are not intended to be permanent in nature and that do not constitute Commercial Signs.
- (p) "Identification Sign" means any Sign or set of numerals or letters that denotes a principal building's location with respect to streets or to those home or buildings around the principal building.
- (q) "Indirectly Illuminated Sign" means any ~~sign~~ Sign that is partially or completely illuminated at any time by a light source that is a shielded so as to not be visible at eye level.
- (r) "Legal Posting" means any Sign intended to convey a legal right or restriction on a property, such as a "no trespassing" sign; a Sign intended to warn the public of a bona fide danger on the property, such as a "beware of dog" sign; or a Sign placed by order of a court or by a government official in the normal course of their duties.
- (s) ~~(t)~~ "Marquee" means any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed, and constructed to provide protection from the weather.
- (t) ~~(u)~~ "Marquee Sign" means any ~~sign~~ Sign attached to, or in any manner made a part of a Marquee.
- ~~(v) "Menu Board" means any sign listing the services or products provided and the corresponding prices of these products or services.~~
- (u) ~~(w)~~ "Monument Sign" means a ~~detached sign~~ Detached Sign the width of which is a minimum of one and one half (1-1/2) times the width of the widest part of Sign Surface and the base of which consists of two (2) or more supports and the height of the base is not more than two (2) feet above the average grade of the ground. The ~~materials of the base of a monument sign shall be made of masonry, wood, anodized metal, stone or concrete~~ base of a Monument Sign shall be architectural in nature and utilize materials consistent with the design of the building it is identifying.
- (v) "Name Plate Sign" means any single-faced, non-illuminated Wall Sign that displays only the name and/or occupation of the person or persons occupying space in a building. Name Plate Signs may be incorporated

within a Wall Sign, and shall otherwise be subject to regulations restricting Wall Signs.

- (w) ~~(x)~~ "Neon Sign" means a ~~directly illuminated sign~~ Directly Illuminated Sign for which the light source is luminescent gas.
- (x) ~~(y)~~ "Non-Affixed Sign" means any ~~sign~~ Sign that is not permanently affixed to a building, structure or the ground.
- (y) ~~(z)~~ "Noncommercial Sign" means any ~~sign~~ Sign that is not a ~~commercial sign as defined herein~~ Commercial Sign.
- (z) ~~(aa)~~ "Nonconforming Sign" means any ~~sign~~ Sign that does not comply with the sign provisions of this Article or any other applicable provision of the Code.
- (aa) ~~(bb)~~ "Official Sign" means any Sign installed or erected by a governmental body or agency or by a public utility such as traffic signs, signals, regulatory devices or warnings; signs designating properties or structures officially designated by the federal, state or local government as being of historical significance; or other similar Signs.
- (bb) "Outdoor Advertising Sign" means any ~~sign~~ Sign advertising or directing attention to a name, a business, product, development, project, or service that is offered, manufactured, or sold at a location other than the premises upon which the sign is situated (commonly known as a billboard).
- (cc) "Pole or Pylon Sign" means a ~~detached sign~~ Detached Sign supported by uprights, braces, columns, poles, or other vertical members that are not attached to a building.
- ~~(dd) "Project Identification Sign" means a sign that only identifies the project.~~
- ~~(ee) "Political Sign" means a sign relating to a candidate, political party, ballot issue, or other political issue to be voted upon in any public election.~~
- (dd) ~~(ff)~~ "Portable Sign" means any ~~sign~~ Sign designed to be transported, including, but not limited to, ~~signs~~ Signs designed to be transported by means of wheels; ~~signs~~ Signs converted to an A-~~frame or sandwich frame sign~~ Frame or Sandwich Sign; balloons or other gas or air filled objects used as ~~commercial signs~~ Commercial Signs; and ~~signs~~ Signs attached to or painted on vehicles parked and visible from the public right-of-way, unless that vehicle is used in the normal day-to-day operations of the business.
- (ee) ~~(gg)~~ "Projecting Sign" means any ~~sign~~ Sign located on the face of the building extending more than one (1) foot from the face of the building to which it is attached.
- (ff) ~~(hh)~~ "Public Property," for the purposes of this Article only, means:
- (1) Any public building or premise owned by a governmental entity;
 - (2) any sidewalk, public bridge, crosswalk, curb, paved portion of any street or highway, or the median strip of any divided street or highway;
 - (3) the unpaved area between the street lines of any street adjacent to a tract of land owned or leased by a governmental entity;
 - (4) any street sign or any traffic sign or signal;

- (5) any telephone, telegraph, electric wire, power, street lamp post or any other utility pole or line, or any fire hydrant;
 - (6) any tree or other vegetation on public property, including without imitation those in between the street lines of a public street; and
 - (7) any public park, open space area, bench, drinking fountain, or other property owned or leased by a governmental entity and used for governmental purposes.
- ~~(ii) "Real Estate Sign" means any sign identifying the residential structure, building, or premises on which the sign is located as "now renting" or "now leasing" or "for sale."~~
- (gg) ~~(jj)~~ "Roof Sign" means any ~~sign~~Sign erected, constructed and maintained fully upon or over the roof or parapet of a building or structure and having the roof or parapet as its principle means of support.
- (hh) ~~(kk)~~ "Semi-illuminated Sign" means any ~~sign~~Sign located on a building face that is uniformly illuminated over the ~~sign surface~~Sign Surface by use of electricity or other artificial light.
- (ii) ~~(H)~~ "Sight Distance Triangle" means the two (2) areas on all corner lots within the triangles formed by a short leg fifteen (15) feet long and a long leg one hundred-forty (140) feet, both distances measured along the curblineline or edge of the pavement.
- (jj) ~~(mm)~~ "Sign" means any framed, bracketed, free-form, or engraved surface, and the support therefor, that is fabricated to create words, numerals, figures, devices, designs, trademarks, or logos, and that is mounted on or affixed to a building, structure, or the ground, and that is visible to persons not located on the premises where the ~~sign~~Sign is located, with the purpose of attracting the attention of these persons or communicating information to them.
- (kk) ~~(nn)~~ "Sign Alteration" means the replacement, enlargement, reduction, reshaping, changing or adding to ~~of a sign~~of a Sign, or ~~sign structure~~Sign Structure or other supporting members.
- (ll) ~~(oo)~~ "Sign Maintenance" means the normal care and minor repair necessary to retain a safe, attractive and finished ~~sign, sign surface or sign structure~~Sign, Sign Surface or Sign Structure. Changing copy or a logo on a ~~sign surface~~Sign Surface without increasing ~~sign~~Sign dimensions shall be considered ~~sign maintenance~~Sign Maintenance if the information, product or service depicted remains the same and if the ~~sign~~Sign is to serve the identical establishment using the same business firm name as before the change.
- (mm) ~~(pp)~~ "Sign Refacing" means changing or replacing the words, numerals or other aspects of the ~~sign surface~~Sign Surface to serve a different establishment or business, or to create a substantially different visual effect without alternating, moving or replacing the ~~sign, sign structure, or sign surface~~Sign, Sign Structure, or Sign Surface.
- (nn) ~~(qq)~~ "Sign Structure" means the support, poles, upright bracing or brackets and framework for any ~~sign~~Sign that is mounted on or affixed to a building, structure or the ground.

- (oo) ~~(rr)~~ "Sign Surface" means the entire area within a square, circle, rectangle, triangle or combination thereof that encompasses the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the signSign from the backdrop or structure against which it is placed, but not including the ~~sign structure~~Sign Structure.
- (pp) ~~(ss)~~ "Snipe Sign" means any signSign made of material such as cardboard, paper, pressed wood, plastic or metal that is attached to a fence, window, tree, utility pole or temporary structure or any signSign that is not securely fastened to a building or structure or firmly anchored to the ground.
- (qq) ~~(tt)~~ "Street Line" means the dividing line between the street right-of-way and the abutting property.
- (rr) ~~(uu)~~ "Temporary Sign" means any signSign intended to be displayed for a limited period ~~not exceeding thirty (30) days and for not more than one (1) thirty (30) day period in any six (6) month period.~~
- ~~(vv) — "Time or Temperature Instrument" means a wall sign displaying only time and/or temperature information with no additional advertising or comments other than the name of a business establishment. of time on public or private property; is typically constructed from nondurable materials, including paper, cardboard, cloth, plastic or wallboard; and does not constitute a structure subject to the Building Code.~~
- (ss) ~~(ww)~~ "Two-Faced Sign" means a signSign with two (2) sign faces and where the angle of separation of the faces is not greater than ninety percent (90%).
- (tt) ~~(xx)~~ "Wall" means the exterior or surface of a building or structure. For the purposes of the sign provisions of this Article, ~~walls~~Walls shall include mansard-type or sloped-roof structures.
- (uu) ~~(yy)~~ "Wall Bulletin" means any signSign painted on a wallWall or a painted signSign or poster that is attached to but does not project more than twelve (12) inches from the building or structure.
- (vv) ~~(zz)~~ "Wall Sign" means any signSign attached to and erected parallel to and within one (1) foot of the face or wallWall of a building, including ~~wall bulletins~~Wall Bulletins.
- (ww) ~~(aaa)~~ "Window Sign" means any signSign that is placed on the inside of a window or upon the ~~panes or glass~~windowpanes and is visible from the exterior of the window. ~~(Ord. 625)~~
- (xx) "Yard Sign" means a non-illuminated Sign constructed of durable materials that is supported by one or more uprights, posts, or bases placed upon or affixed in the ground and not attached to any part of a building.

16-904 REGULATIONS GENERALLY. Other than lawful ~~nonconforming signs~~Nonconforming Signs, no signs shall be permitted in any zoning district of the City except in accordance with these provisions. ~~(Ord. 625)~~

16-905 COMPUTATIONS. The following principles shall control the computation of ~~sign surface area~~Sign Surface and signSign height.

- (a) Computation of ~~sign surface area~~Sign Surface of individual signs. The area of a ~~sign surface~~Sign Surface (that is also the sign area of a ~~wall sign~~Wall Sign or any or other ~~sign~~Sign with only one "face") shall be computed by measuring the area of the smallest circle, square, rectangle, triangle or combination thereof that will encompass the extreme limits of the writing, representation, emblem or other display, together with any material or color forming integral part of the background of the ~~sign~~Sign or used to differentiate the ~~sign~~Sign from the backdrop or ~~sign structure~~Sign Structure against which it is placed, but not including the ~~sign structure~~Sign Structure or decorative fence or ~~wall~~Wall between the fence or ~~wall~~Wall otherwise meet zoning ordinance regulations and that is clearly incidental to the display itself.
- (b) Computation of area of multi-face ~~signs~~Signs. The ~~sign surface area~~Sign Surface for a ~~sign~~Sign with more than one face shall be computed by adding together the area of all ~~sign surfaces~~Sign Surfaces on the ~~sign~~Sign.
- (c) Computation of height. The height of a ~~sign~~Sign shall be computed as the distance from the base of the ~~sign~~Sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lowest of (a) existing grade prior to construction, or (b) the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the ~~sign~~Sign. In cases in which the normal grade cannot reasonably be determined, ~~sign~~Sign height shall be computed on the assumption that the elevation of the normal grade at the base of the ~~sign~~Sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the zoned lot, whichever is lower. (~~Ord. 625~~)

16-906

PROHIBITED SIGNS. The following types of ~~signs~~Signs shall be prohibited, except where specifically permitted in this Article:

- (a) Any ~~sign~~Sign that is not otherwise included as a type of ~~sign~~Sign authorized hereby.
- (b) Any ~~sign~~Sign that prevents free ingress to or egress from any door, window, or fire escape.
- (c) Any ~~sign~~Sign that obstructs the view within the ~~sight distance triangle~~Sight Distance Triangle of a street intersection or that interferes with the view necessary for motorists to proceed safely through intersections or to enter onto or exit from public or private streets.
- (d) Any ~~outdoor advertising sign~~Outdoor Advertising Sign.
- (e) Any ~~non-affixed sign~~Non-Affixed Sign.
- (f) Any ~~roof sign, banner, portable sign~~Roof Sign, Banner, Portable Sign, pennant, searchlight, A-frame or ~~sandwich sign, snipe sign or temporary sign~~Sandwich Sign, or Snipe Sign.
- (g) Any ~~directly, indirectly or semi-illuminated sign and neon sign~~Directly Illuminated Sign, Indirectly Illuminated Sign or Semi-Illuminated Sign.
- (h) Any Neon Sign.
- (i) ~~(h) Any Pole or pylon signs~~Pylon Sign.

- ~~(j)~~ Any ~~sign~~Sign located on public property.
- ~~(k)~~ Any ~~sign~~Sign that, by reason of its size, location, movement, content, coloring, or manner of illumination, may be confused with or construed as a traffic-control sign, signal or device, or the light of an emergency vehicle or that hides from view any traffic or street sign or signal or device.
- ~~(l)~~ Any ~~sign~~Sign giving false statements concerning zoning or land use.
- ~~(m)~~ Any ~~abandoned sign~~Abandoned Sign.
- ~~(n)~~ Any ~~sign containing obscene, indecent or profane messages~~Sign containing a message that is obscene, as that term is defined in K.S.A. 21-4301(c), and any amendments thereto.
- ~~(o)~~ Any ~~sign~~Sign containing false or misleading advertising.
- ~~(p)~~ Any ~~changeable copy sign~~Changeable Copy Sign, except on churches, public or private schools, or public buildings, theater listing signs, and service station price signs.
- ~~(q)~~ Any ~~Attention-attracting devices~~Device.

16-907 SIGN PERMIT REQUIRED; WHEN; APPLICATION PROCEDURES.

- (a) Except as otherwise provided in Section 16-908, no ~~sign~~Sign shall be installed, erected or set in place, nor shall any ~~sign alteration or sign refacing~~Sign Alteration or Sign Refacing occur, until a sign permit has been issued by the ~~building inspector~~Building Inspector and until a sign permit fee as set forth in Chapter IV, Article 9 of the ~~City~~ Code is paid.
- (b) Any person desiring to erect a ~~sign~~Sign for which a permit is required shall submit an application to the ~~city clerk~~City Clerk on a form provided by the City that shall contain the following information:
 - (1) name, address and telephone number of the applicant;
 - (2) location of building, structure or lot to which or upon which the ~~sign~~Sign is to be attached or erected;
 - (3) position of the ~~sign~~Sign in relation to nearby buildings or structures, streets and sidewalks;
 - (4) drawing of the ~~sign~~Sign and specifications describing the ~~sign~~Sign;
 - (5) length of time the ~~sign~~Sign will be displayed;
 - (6) written consent of the owner of the building, structure or land to which or on which the ~~sign~~Sign is to be attached or erected, including the owner's address and phone number;
 - (7) other information as the ~~city clerk~~City Clerk and/or ~~building inspector~~Building Inspector shall require to show full compliance with this Article and all other provisions of the ~~City~~ Code.
- (c) When the sign permit application is complete, the ~~city clerk~~City Clerk shall forward the application to the ~~building inspector~~Building Inspector. It shall be the duty of the ~~building inspector~~Building Inspector, upon receipt of the application, to review the application and to conduct other investigation as is necessary to determine the application's accuracy. If the applicant has provided the information requested in the application, the information is accurate and it appears that the proposed ~~sign~~Sign will comply with this Article and all other applicable provisions of the ~~City~~ Code, the ~~building inspector~~Building Inspector shall issue a sign permit.

All issued sign permits shall contain the number of the permit and the date the permit is issued. If the ~~building inspector~~Building Inspector determines that the proposed sign is not in compliance with all requirements of the ~~City Code~~, the ~~building inspector~~Building Inspector shall notify the applicant in writing that the requested permit will not be issued, state in the notice the reasons for the denial, and inform the applicant of his or her right to appeal the ~~building inspector~~Building Inspector's determination to the ~~board~~Board of ~~zoning appeals~~Zoning Appeals. The ~~building inspector~~Building Inspector shall either issue or deny the sign permit within thirty (30) days of the date the ~~city clerk~~City Clerk receives the application for the permit. If, on the thirtieth (30th) day after the ~~city clerk~~City Clerk received the application, the application is not complete, the ~~building inspector~~Building Inspector shall deny the requested permit.

(d) Any person aggrieved by the denial of an application for a sign permit by the ~~building inspector~~Building Inspector may appeal the ~~building inspector~~Building Inspector's refusal to the ~~board~~Board of ~~zoning appeals~~Zoning Appeals by giving written notice to the ~~city clerk~~City Clerk not later than twenty (20) days after notice of the ~~building inspector~~Building Inspector's refusal to issue the requested sign permit. In any appeal, the ~~board~~Board of ~~zoning appeals~~Zoning Appeals shall review the action of the ~~building inspector~~Building Inspector at its next regularly scheduled meeting, but not later than thirty (30) days after notice of appeal is received by the ~~city clerk~~City Clerk, and if it determines that the action of the ~~building inspector~~Building Inspector was incorrect, shall order the issuance of the permit under the terms and conditions as are appropriate.

(e) In certain instances, as specifically designated in these regulations, the ~~planning commission~~Planning Commission shall consider and approve or deny sign permit applications. In this instance, the ~~building inspector~~Building Inspector shall not issue a sign permit unless the ~~planning commission~~Planning Commission has first approved the subject sign permit application. The ~~planning commission~~Planning Commission shall consider the sign permit application within the time frames set forth hereinabove for the ~~building inspector~~Building Inspector to either issue or deny the sign permit. If the ~~planning commission~~Planning Commission denies the sign permit application, the applicant may appeal the ~~planning commission~~Planning Commission's denial to the ~~governing body~~Governing Body by giving written notice to the ~~city clerk~~City Clerk not later than twenty (20) days after the ~~planning commission~~Planning Commission's denial. The applicant shall be provided written notice of the ~~planning commission~~Planning Commission's consideration of the sign permit application and the ~~governing body~~Governing Body's review of the applicant's appeal of the ~~planning commission~~Planning Commission's denial, if the appeal is requested. The ~~governing body~~Governing Body shall consider the sign permit applicant's appeal at its next regularly scheduled meeting and the time frame for the ~~building inspector~~Building Inspector to issue or deny the sign permit shall be ~~tabled~~deferred until two

- (2) working days after the ~~governing body~~Governing Body has heard the sign permit applicant's appeal.
- (f) All rights and privileges acquired pursuant to this Article, or any amendment hereto, are mere licenses and are revocable at any time by the City for cause, and all permits shall contain this provision.
- (g) All ~~signs~~Signs hereafter installed shall have permanently affixed thereto a label clearly visible at all times indicating the number of the sign permit.
~~(Ord. 625)~~

16-908 SIGNS EXCLUDED FROM SIGN PERMIT REQUIREMENT. The following ~~signs~~Signs are not required to obtain a permit, however, these ~~signs~~Signs shall otherwise comply with this Article and all other applicable provisions of the ~~City~~ Code.

- (a) Sign ~~maintenance~~Maintenance.
- (b) ~~Signs not exceeding two square feet in area that are customarily associated with residential use and that are not a commercial sign, such as signs giving property identification names or numbers, names of occupants, signs on mailboxes or newspaper tubes, signs on private property relating to private parking or signs warning the public against trespassing or dangers from animals.~~Directional Signs.
- (c) ~~Signs erected by or on behalf of or pursuant to the authorization of a governmental body, including legal notices, identification and information signs, and traffic, directional or regulatory signs.~~Holiday Decorations.
- (d) Home security and neighborhood watch signs.
- (e) Identification Signs.
- (f) Legal Postings.
- (g) Name Plate Signs.
- (h) ~~(d) Official noncommercial signs erected by public utility companies~~Signs.
- (i) Window Signs.
- (j) ~~(e)~~ Flags, pennants or insignia of any governmental body, public or private school, church, synagogue or other place used primarily for worship, community centers, or other public, semi-public, or civic organizations or other similar noncommercial entity, when not displayed in connection with a commercial promotion or as an advertising device, and; provided that, not more than three flags, pennants or insignia shall be displayed on any building, structure or premises.
- (k) ~~(f)~~ Integral decorative or architectural features of buildings, so long as these features do not contain letters, trademarks, moving parts or lights.
- (l) Decorative landscape markers, which may include logos or trademarks.
- (m) ~~(g)~~ Signs on or adjacent to doors at the rear of commercial or industrial buildings displaying only the names and addresses of the occupants. Where multiple tenants share the same rear door, the sign may display the name and address of each tenant. These signs shall not exceed four (4) square feet.
- (n) ~~(h)~~ Signs painted or otherwise permanently attached to a currently licensed motor vehicle, which vehicle is not primarily used as a ~~sign.~~

- ~~(i) Contractor remodeling signs identifying the contractor(s) performing remodeling or property improvement work; provided that, not more than one detached, non-illuminated, single faced sign, not exceeding four square feet, shall be permitted for each contractor only during the period of active construction by the contractor on the premise where the remodeling sign is located.~~
- ~~(j) Non-illuminated, real estate signs in single family, duplex residential and multi-residence districts.~~
- ~~(k) Commercial and industrial sales or leasing signs.~~
- ~~(l) Political signs.~~
- ~~(m) Temporary signs that advertise a garage sale in accordance with Section 5-408 of the City Code Sign.~~
- (o) ~~(n)~~ Temporary signs at churches, synagogues and other similar places of worship, community centers, public and private schools and buildings or structures owned or leased and used by other public, semi-public, or civic organizations.
- ~~(e) Building markers. (Ord. 683, Sec. 2)~~

16-909 SIGNS PERMITTED IN ALL DISTRICTS.

- (a) Churches, synagogues, and other similar places of worship, schools, libraries, community centers, or other public or semi-public facilities shall be allowed two (2) ~~wall signs~~ Wall Signs, with not more than one (1) on each facade. No ~~sign~~ Sign shall have a ~~sign surface~~ Sign Surface area exceeding twenty-five (25) square feet. In lieu of one (1) of the ~~wall signs~~ Wall Signs, one (1) ~~detached monument sign~~ Monument Sign shall be permitted. The ~~monument sign~~ Monument Sign shall be located on the premises, be not less than ten (10) feet from the street line, and the ~~sign surface~~ Sign Surface of each sign face shall not exceed twenty-five (25) square feet in area per face. The height of the ~~sign~~ Sign shall not exceed five (5) feet; provided, that for each two (2) foot setback from the street line in excess of ten (10) feet, one (1) additional foot may be added to the height of the ~~sign~~ Sign to a maximum of eight (8) feet.
- (b) One ~~parking lot directional sign~~ Directional Sign shall be permitted at each entrance to a building site. These ~~signs~~ Signs may be a pole or pylon sign, single- or two-faced and shall not exceed three (3) feet in height, and four (4) square feet of ~~sign surface~~ Sign Surface per face. These ~~signs~~ Signs may indicate entrances, exits, addresses, direction of traffic-flow and the location of loading docks, parking areas, delivery doors, drive-through lanes and similar facilities. The ~~sign~~ Sign shall be located on the premises and shall be set back from the street line a minimum of three (3) feet. ~~Up to 25% of the sign surface area may be used to display the name or logo of the developer, building or principal tenant.~~
- (c) Official governmental jurisdiction flags, including flags indicating weather conditions, and flags that are emblems of religious, charitable, public and nonprofit organizations. ~~A single corporate flag shall be permitted in~~

~~conjunction with at least one (1) governmental flag.~~ No flag shall exceed fifty (50) square feet in area.

~~(d) Building markers.~~

~~(e) Noncommercial signs~~Signs, provided that these ~~signs~~Signs shall conform to all ~~sign surface~~Sign Surface and sign type area, height, setback, location, construction and maintenance requirements applicable to all other ~~signs~~Signs in the zoning district in which the ~~noncommercial sign~~Noncommercial Sign is located as set forth in this Article or any other applicable provisions of the Code. ~~(Ord. 625)~~

(e) No sign shall be displayed on private property without the written consent of the owner or occupant of the property on which the Sign is displayed.

16-910

SIGNS ALLOWED IN THE SINGLE-FAMILY RESIDENCE, DUPLEX RESIDENCE AND MULTI-RESIDENCE DISTRICTS.

(a) One ~~(1) non-illuminated, detached real estate sign~~Yard Sign is permitted on any lot. The sign ~~may be a pole or pylon sign,~~ shall have ~~one (1) face, have a sign surface~~a Sign Surface not more than six (6) square feet in area with a maximum height of six (6) feet, and shall be set back a minimum of ten (10) feet from the street line. ~~Three (3) "open house" pole or pylon signs for a single family or duplex residence that is being offered for sale shall be allowed in addition to the real estate sign during the period that the property is actually open for inspection. One (1) "open house" sign may be placed on the property that is offered for sale. Open house signs shall not exceed three (3) feet per side in area. The "sold" language may be placed on a real estate sign in a manner so as not to increase the height or area of that sign in excess of the size limitation as set forth in this section for a total period of time not to exceed seven (7) consecutive calendar days following the execution of the contract for sale.~~

(b) ~~Construction site identification signs may be permitted during the development of any project. The sign may be a pole or pylon sign, and may identify the project, the owner or developer, the future tenants, the architect, engineers, realtors, contractors and subcontractors involved, funding sources, and may contain related information including, but not limited to, sales or leasing information. Not more than one (1) detached, non-illuminated construction site identification sign shall be permitted for each one thousand (1,000) square feet of perimeter street frontage or portion thereof. If the project has more than one (1) street frontage, then a separate construction site identification sign may be permitted on each frontage; provided that, a maximum of three (3) construction site identification signs shall be permitted for any project.~~An unlimited number of window signs is permitted. The Sign Surface of any single Window Sign shall not exceed three (3) square feet.

~~These signs shall not exceed eight (8) feet in height, thirty-two (32) square feet in sign surface area per face, with a maximum of two (2) faces, and shall be set back at least twenty (20) feet from the street line. For each additional one' (1) foot setback from the street line over twenty (20) feet,~~

~~the sign surface area per face may be increased one (1) square foot, to a maximum of one hundred (100) square feet. For each additional ten (10) foot setback from the street line over twenty (20) feet, the height may be increased six (6) inches, to a maximum of twelve (12) feet. No sign shall be located closer than fifty (50) feet from any residential structure. All signs for residential projects shall be removed when certificates of occupancy have been issued for ninety percent (90%) of the dwelling units in the project.~~

- (c) ~~In addition to construction site identification signs, each multi-residence project may have one banner not exceeding fifty (50) square feet. The banner may be located only on the roof or wall of the project clubhouse or on one (1) of the individual multi-residence buildings within the project. That banner shall be in place for a maximum time period of sixty (60) days from the issuance of the sign permit and may not be renewed except that each project may obtain additional permits for the afore-described banners after a three (3) year time period is passed from the issuance of previous sign permits for a banner for the subject multi-residence project. These banners may only contain the words "now renting" or "now leasing" or "for sale," along with the name of the project, address or location, phone numbers, development company or owner and directional symbols~~Three (3) Temporary Signs are permitted on any lot. All Temporary Signs shall have a Sign Surface no larger than three (3) square feet, shall be no more than two and one half (2 ½) linear feet wide, and with a maximum height of three and one half (3 ½) feet above grade. All Temporary Signs shall be set back a minimum of ten (10) feet from the street line. No Temporary Sign shall obstruct or impair access to a public sidewalk, public or private street or driveway, traffic control sign, bus stop, fire hydrant or any type of street furniture, or otherwise create a hazard, including a tripping hazard. Temporary Signs shall not be posted on trees or utility poles. No Temporary Sign shall be illuminated or painted with light-reflecting paint. A Temporary Sign may be posted for so long as it remains in good condition. Once a Temporary Sign is tattered or otherwise is no longer in good condition, it shall be removed or replaced. If the Building Inspector determines that a Temporary Sign is not in good condition, the property owner shall be notified of that determination and shall remove or replace the sign within three (3) days of such notification. Signs which are not removed or replaced within three (3) days of such notification shall be deemed a nuisance and shall be subject to abatement in accordance with the provisions of Chapter VIII, Article 3, of the Code. The Building Inspector's determination that a Temporary Sign is not in good condition may be appealed to the Board of Zoning Appeals. Any appeal to the Board of Zoning Appeals shall stay any abatement proceedings during the time the matter is pending before the Board of Zoning Appeals.
- ~~(d) Upon removal of construction site identification signs for a multi-residence project or congregate care facility, a temporary sales or leasing~~

~~sign may be constructed or placed on the property. A temporary sales or leasing sign may be a pole or pylon sign shall be non illuminated and shall not exceed five (5) feet in height, and shall not exceed fifteen (15) square feet of sign surface per face. The sign shall be within two (2) feet of the project identification sign. These signs may only contain the words "now renting" or "now leasing" or "for sale," along with the name of the company, address or location, phone numbers, development company or owner and directional symbols.~~

- ~~(e) Project identification signs for a subdivision or residential project may be permitted at each entrance to the subdivision or residential project. All project identification signs shall be monument signs, may be indirectly or semi illuminated signs and, except as hereinafter provided, shall be located on the premises. The sign shall not exceed five (5) feet in height and the sign surface shall not exceed fifty (50) square feet in area per face. If not sitting within the landscaped setback, the sign base shall be located within a curbed landscaped area, extending a minimum of three (3) feet on all sides of the sign base. For a project that is situated on both sides of a public or private street, one (1) project identification sign may be located on each side of the street, or, alternatively, one (1) project identification sign may be located in a landscaped median with the approval of the planning commission. Where a project identification sign is to be located in the area between the street lines of a street, plans shall be submitted to the planning commission indicating the location, size and design of the project identification sign, as well as a copy of the bylaws or other documentation of the association that will have permanent responsibility for maintenance of the sign and required landscaping. In addition to project identification signs permitted at entrances to the subdivision or project, one project identification sign may be permitted on the premises, adjacent to each intersection of two (2) thoroughfares and each intersection of a thoroughfare and a collector street.~~
- ~~(f) One (1) non illuminated banner may be mounted on a residential property that is featured on an annual or semi annual homes tour sponsored by an organization that encourages ownership, remodeling or renovation during the days that the homes tour takes place. No more than two (2) banners that bring attention to a special announcement or event at those premises may also be displayed on schools, churches, or other places of worship not more than three (3) times each calendar year for a period not to exceed ten (10) days. A permit for banners four (4) feet by eight (8) feet in size or smaller may be issued by the building inspector. Permits for larger banners or for periods exceeding ten (10) days must be first approved by the planning commission.~~
- ~~(g) Noncommercial signs, provided, no sign shall exceed eight (8) feet in height; the sign surface area does not exceed fifty (50) square feet in area per face, with a maximum of two faces; and the sign shall be set back a maximum of five (5) feet from the street line. Noncommercial signs may be wall signs, detached signs, pole or pylon signs, temporary signs and~~

~~banners. These signs shall not be directly illuminated. No noncommercial sign shall be displayed on private property without the written consent of the property on which the sign is displayed. (Ord. 625)~~

16-911 SIGNS PERMITTED IN COMMERCIAL AND INDUSTRIAL DISTRICTS.

- (a) To the extent that ~~the~~a residential land use is permitted in a commercial or industrial zoning district, signs for a residential land use shall be permitted as in the single-family, duplex residential and multi-residence districts.
- (b) ~~Construction site identification signs may be permitted during the development of any project. These signs may identify any contractor or subcontractor performing work on the property and may be pole or pylon signs. These signs may identify the project, the contractor or subcontractor and the nature of the work performed by that contractor or subcontractor. No more than one (1) detached, non-illuminated, construction site identification sign shall be permitted for each contractor or subcontractor. If a development has more than one (1) street frontage, then a separate construction site identification sign may be permitted for each frontage for each contractor or subcontractor. These signs shall not exceed eight (8) feet in height or thirty-two (32) square feet in sign surface per face, with a maximum of two (2) faces, and shall be set back at least twenty (20) feet from the street line. For each additional one (1) foot setback from the street line over twenty (20) feet, the area per face may be increased one (1) square foot, to a maximum of one hundred (100) square feet. For each additional ten (10) foot setback from the street line over twenty (20) feet, the height may be increased six (6) inches, to a maximum of twelve (12) feet above average grade. No sign shall be located closer than fifty (50) feet from any residentially zoned property. All signs shall be removed prior to the issuance of the certificate of occupancy, for the last building of each phase of the project.~~In all commercial and industrial districts, one (1) Window Sign is permitted in lieu of any Sign permitted by this Article, provided that, the Window Sign shall not have a Sign Surface exceeding eight (8) square feet.
- (c) ~~All commercial and industrial districts.~~In all commercial and industrial districts, one (1) Temporary Sign is permitted on any lot. All Temporary Signs shall have a Sign Surface no larger than three (3) square feet, shall be no more than two and one half (2 ½) linear feet wide, and with a maximum height of three and one half (3 ½) feet above grade. All Temporary Signs shall be set back a minimum of ten (10) feet from the street line. No Temporary Sign shall obstruct or impair access to a public sidewalk, public or private street or driveway, traffic control sign, bus stop, fire hydrant or any type of street furniture, or otherwise create a hazard, including a tripping hazard. Temporary Signs shall not be posted on trees or utility poles. No Temporary Sign shall be illuminated or painted with light-reflecting paint. A Temporary Sign may be posted for so long as it remains in good condition. Once a Temporary Sign is tattered or otherwise is no longer in good condition, it shall be removed or

replaced. If the Building Inspector determines that a Temporary Sign is not in good condition, the property owner shall be notified of that determination and shall remove or replace the sign within three (3) days of such notification. Signs which are not removed or replaced within three (3) days of such notification shall be deemed a nuisance and shall be subject to abatement in accordance with the provisions of Chapter VIII, Article 3, of the Code. The Building Inspector's determination that a Temporary Sign is not in good condition may be appealed to the Board of Zoning Appeals. Any appeal to the Board of Zoning Appeals shall stay any abatement proceedings during the time the matter is pending before the Board of Zoning Appeals.

~~(1) Upon removal of construction site identification signs for a commercial or industrial project, one commercial sales or leasing sign may be constructed or placed on the property for each building. Provided that, any commercial sales or leasing sign that is displayed longer than two hundred seventy (270) days shall be required to obtain a permit pursuant to Section 16-907. Any sign displayed for a period longer than provided for herein for which a sign application has not been submitted to the city clerk shall be a nonconforming sign. No sign that is displayed longer than two hundred seventy (270) days for which a sign permit application is pending shall be a nonconforming sign. The sign shall be non-illuminated, may be a pole or pylon sign, may be single or double-faced, shall not exceed five (5) feet in height, and shall not exceed twenty (20) square feet of sign surface per face. Any sign may contain the words "now renting," "now leasing," or "for sale," along with the name of the project, address or location, phone numbers, development company or owner and directional symbols. Signs permitted by this section in the office building, planned industrial park, and planned office building districts shall be located within ten (10) feet of the building that is being advertised on the sign. Signs permitted by this section in retail business, planned restricted business and planned general business districts shall be set back a minimum of fourteen (14) feet from the street line of a public street or the curb line of private streets. In the case of vacant land, all signs shall be set back a minimum of twenty-five (25) feet from the street line of a public street or the curb line of private streets.~~

~~(2) One (1) corporate flag may be displayed in conjunction with not more than two (2) governmental flags.~~

~~(3) One (1) window sign in lieu of any sign permitted by this Article, provided that, the window sign shall not have a sign surface area exceeding eight (8) square feet.~~

(d) Office building and planned office building districts.

(1) In the office building and planned office building districts, not more than three (3) ~~wall signs~~ Wall Signs shall be permitted on

each office building, no more than one (1) ~~sign~~Sign on any facade. No ~~sign~~Sign shall have a ~~sign-surface~~Sign Surface area exceeding seven percent (7%) of the area of the wall upon which it is mounted.

- (2) In lieu of the ~~wall-signs~~Wall Signs, one ~~monument sign~~Monument Sign for each building shall be permitted. The ~~sign~~Sign shall not exceed five (5) feet in height and the ~~sign-surface-area~~Sign Surface shall not exceed fifty (50) square feet per face if located at least ten (10) feet from the street line of public street or private street curb line. For each additional two (2) foot setback from the street line of a public street or a private street curb line over ten (10) feet, one (1) additional foot may be added to the height of the ~~sign~~Sign to a maximum of ten (10) feet ~~if~~. If not sitting within the landscaped setback, the sign base shall be located within a curbed landscaped area, extending a minimum of three (3) feet on all sides of the sign base.
- (3) In lieu of one (1) ~~wall sign~~Wall Sign, one (1) ~~marquee sign~~Marquee Sign or one (1) ~~canopy sign~~Canopy Sign shall be permitted. The ~~sign~~Sign shall be first approved by the ~~planning commission~~.

~~(4) In addition to signs, if a development plan is required for the use, the marquee sign or canopy sign shall be approved at the time of final development plan approval permitted above, a wall directory sign containing the names and addresses of tenants may be installed by each exterior entrance to the building. No sign shall exceed four (4) square feet in area.~~Planning Commission.

(e) Retail business and planned restricted business districts.

- (1) In retail business and planned restricted business districts, ~~wall signs~~Wall Signs as indicated above for office building and planned office building districts shall be permitted except that these ~~signs~~Signs shall be allowed for each business or commercial establishment in a multi-tenant building and shall be located on the facade of the tenant space. These ~~signs~~Signs may be ~~indirectly illuminated or semi-illuminated~~Indirectly Illuminated or Semi-Illuminated, but shall not extend above the height of the ~~wall~~Wall upon which they are mounted, and any wall bulletin shall not be larger than ten (10) square feet in area. In addition, one (1) non-illuminated ~~wall sign~~Wall Sign, with a Sign Surface not more than six (6) square feet ~~in area~~, may be placed at each major entrance to a multi-tenant building.
- (2) In lieu of one of the ~~wall signs~~Wall Signs, one ~~monument sign~~Monument Sign for each building shall be permitted. The ~~sign~~Sign shall not exceed five (5) feet in height and the ~~sign surface-area~~Sign Surface shall not exceed fifty (50) square feet per face if located at least ten (10) feet from the street line of a public street or private street curb line. For each additional two (2) foot

set back from the street line of a public street or private street curb line over ten (10) feet, one (1) additional foot may be added to the height of the sign, to a maximum of ten (10) feet. If not sitting within the landscaped setback, the sign base shall be located within a curbed landscaped area, extending a minimum of three (3) feet on all sides of the sign base.

- (3) In lieu of one (1) ~~wall sign~~ Wall Sign, one (1) ~~projecting sign~~ Projecting Sign of the same area as the ~~wall sign~~ Wall Sign replaced shall be permitted, provided that no ~~projecting sign~~ Projecting Sign shall extend more than three (3) feet from the face of the building or one third (1/3) of the sidewalk width from the wall of the supporting building, whichever is less. The lower edge of a ~~projecting sign~~ Projecting Sign shall be no closer than ten (10) feet to any sidewalk or fourteen (14) feet to any street or alley surface where vehicles may pass below. The upper edge of a ~~projecting sign~~ Projecting Sign shall neither stand vertically above the eave line of a single structure nor above the second-story sill line of a multi-story structure. All ~~projecting signs~~ Projecting Signs shall be attached at right angles to the supporting structure and may be anchored no more than six (6) inches from the structure.
- (4) In lieu of one ~~wall sign, one neon sign~~ (1) Wall Sign, one (1) Neon Sign shall be permitted, with a Sign Surface not exceeding ten (10) square feet ~~in sign surface area shall be permitted~~. Any ~~neon signs~~ Neon Signs located within the building and within forty-eight (48) inches of any window or door and visible from outside of the building shall constitute the ~~one neon sign~~ Neon Sign allowed in lieu of ~~one wall sign, a~~ Wall Sign. Retail liquor stores so licensed by the Kansas Division of Alcoholic Beverage Control using a ~~neon sign~~ Neon Sign shall be further limited to a ~~sign~~ Sign that has a border, lettering, figure or design of the ~~sign~~ Sign or tubing that is not more than four (4) inches high or three (3) inches wide, restricted to lines that shall be not more than one (1) inch apart, only one (1) line shall be allowed to be in excess of three (3) feet in length, and any border shall not allow the ~~sign surface~~ Sign Surface to exceed ten (10) square feet. Any retail liquor store sign shall be located on the corner of a window or on the door. In addition, retail liquor stores shall be allowed to use interior neon tubing to partially or fully outline a window or windows providing that neon tubing does not flash, blink, rotate or move. The neon border shall not be permitted to be wider than a maximum of four (4) inches. In measuring the area of the sign or tube, a rectangle shall be constructed from the highest, lowest and widest points where the sign or tube, exists, and the area shall be calculated to include all that area within the rectangle. In no event shall a Neon Sign be used on any facade of the main structure except as otherwise provided herein. No Neon Signs shall blink, flash or

otherwise be used to display intermittent lighting sequences or to simulate motion. Neon signs shall be installed, wired and inspected in accordance with the National Electrical Code, as it may be amended.

~~The neon border shall not be permitted to be wider than a maximum of four inches. In measuring the area of the sign or tube, a rectangle shall be constructed from the highest, lowest and widest points where the sign or tube, exists, and the area shall be calculated to include all that area within the rectangle. In no event shall a neon sign be used on any facade of the main structure except as otherwise provided herein. No neon signs shall blink, flash or otherwise be used to display intermittent lighting sequences or to simulate motion. Neon signs shall be installed, wired and inspected in accordance with the National Electrical Code, as it may be amended.~~

- (5) In lieu of one ~~wall sign~~(1) Wall Sign, one ~~marquee sign~~(1) Marquee Sign or one ~~canopy sign~~(1) Canopy Sign shall be permitted. The ~~sign~~Sign shall be first approved by the ~~planning commission~~Planning Commission. If a development plan is required for the use, the ~~marquee sign or canopy sign~~Marquee Sign or Canopy Sign shall be approved at the time of final development plan approval.
- (6) Drive-through restaurants and car washes may have two (2) single-faced ~~menu boards~~Signs located in conjunction with ~~the~~a drive-through lane. The ~~sign~~Sign shall not exceed eight (8) feet in height or ~~thirty-two~~ (32) square feet of ~~sign surface area~~Sign Surface per face.
- (7) In the case of a shopping center designated as one unified entity and consisting of one or several attached or free-standing buildings, one ~~indirectly or semi-illuminated monument sign~~Indirectly or Semi-Illuminated Monument Sign, in addition to all other authorized ~~signs~~Signs may be permitted ~~identifying the entire center. A monument sign.~~ The Monument Sign shall not exceed five (5) feet in height, ~~and the sign surface area shall not exceed 50~~with the Sign Surface not exceeding fifty (50) square feet per face if located ten (10) feet from the street line of a public street or private street curb line. For each additional two (2) foot setback from the street line of a public street or private street curb line, one (1) additional foot may be added to the height of the sign to a maximum of ten (10) feet. If not sitting within the landscaped setback, the sign base shall be located within a curbed landscaped area, extending a minimum of three (3) feet on all sides of the sign base.
- (8) Except in the case of a shopping center designated as one unified entity and consisting of one or several attached or free-standing buildings, one ~~indirectly or semi-illuminated monument~~

- ~~sign~~Indirectly or Semi-Illuminated Monument Sign shall be permitted in lieu of one ~~wall-sign~~(1) Wall Sign for each commercial building, which sign shall conform to the height, size and setback requirements applicable to monument signs in the office building, and planned office building districts.
- (9) Banners may be used as architectural or decorative accessories in shopping centers provided they are generally uniform throughout a group of shops, and in harmony with the architectural theme of the center. No ~~banner~~Banner shall be installed unless its location and design have first been approved by the ~~planning commission~~Planning Commission.
- (f) Planned general business and planned industrial park district.
- (1) Each business establishment shall be permitted not more than three ~~indirectly or semi-illuminated wall, marquee or canopy signs~~(3) Indirectly or Semi-Illuminated Wall, Marquee or Canopy Signs, not more than one ~~(1)~~ on each business ~~façade, the sign surface area of the sign~~façade. The Sign Surface of any such Sign shall not exceed seven percent ~~(7%)~~ of the total area of the façade upon which it is placed. ~~wall-signs~~Wall Signs shall not extend above the height of the ~~wall~~Wall. Marquee and ~~canopy-signs~~Canopy Signs shall not extend more than six ~~(6)~~ inches beyond the front of the ~~marquee~~Marquee or ~~canopy~~Canopy on which they are located, above the height of the ~~wall~~Wall on which the ~~marquee~~Marquee or ~~canopy~~Canopy is mounted, and their lower edge shall be no closer than ~~ten (10)~~ feet to any sidewalk or ~~14~~fourteen (14) feet to any street or alley surface where cars may pass below. ~~Any wall~~The Sign Surface of any Wall bulletin- shall not exceed ~~ten (10)~~ square feet ~~in sign surface area~~. In addition, one (1) ~~non-illuminated wall sign, not more than~~Non-Illuminated Wall Sign, with a Sign Surface not exceeding six ~~(6)~~ square feet ~~in sign surface area~~, may be placed on each major entrance to a multi-tenant building.
- (2) In lieu of one ~~(1)~~ of the above ~~signs~~Signs, one ~~projecting sign~~(1) Projecting Sign shall be permitted for each establishment provided that the ~~sign surface area~~Sign Surface of the ~~projecting sign~~Projecting Sign shall not exceed seven percent (7%) of the total area of the façade upon which it is attached, shall not extend more than three (3) feet from the face of the building or one-third (1/3) of the sidewalk width, whichever is less, above the roof level of the building where the ~~sign~~Sign is located, and the ~~signs~~Signs' lower edge shall be no closer than ten (10) feet to any sidewalk or fourteen (14) feet to any street or alley surface where cars may pass below.
- ~~(3) In addition, project identification signs shall be permitted. All signs shall be monument signs and may be indirectly or semi-illuminated signs. Except as hereinafter provided, project identification signs shall be located on the premises at least 10 feet~~

~~from the street line. These signs shall not exceed five feet in height, and the sign surface area shall not exceed 50 square feet per face. For each additional two foot setback from the street line over 10 feet, one additional foot may be added to the height of the sign, to a maximum of 15 feet, and four square feet may be added to the sign surface area of the sign, to a maximum of 100 square feet. If not sitting within the landscaped setback, the sign base shall be located within a curbed landscaped area, extending a maximum of three feet on all sides of the sign base. Where a project is situated on both sides of a public or private street, one project identification sign may be located on each side of the street, or, alternatively, one project identification sign may be located in the public or private street right of way with the approval of the planning commission. Where a project identification sign is to be located in the public or private street right of way, plans shall be submitted to the planning commission indicating the location, size and design of the project identification sign, as well as a copy of the bylaws or other documentation of the association which will have permanent responsibility for maintenance of the sign and required landscaping. In addition to project identification signs permitted at entrances to the project, one project identification sign may be permitted on the premises adjacent to each intersection of two thoroughfares and each intersection of a thoroughfare and a collector street.~~

- ~~(f)~~ Drive-through restaurants and car washes may have two (2) single-faced ~~menu boards~~Signs located in conjunction with ~~the~~a drive-through lane. Each ~~sign~~Sign shall not exceed eight (8) feet in height or ~~thirty-two~~ (32) square feet of ~~sign surface area~~Sign Surface per face. ~~(Ord. 625)~~

16-912 ADDITIONAL REGULATIONS APPLICABLE TO ALL DISTRICTS.

- (a) ~~Any sign authorized in any zoning district may contain non commercial copy in lieu of other authorized copy; provided that, the sign must comply with the sign surface, height, type, setback, location, construction and maintenance requirements set forth in this Article or any other provision of the City Code applicable to the zoning district in which the sign is located.~~For any Sign authorized in any zoning district, a noncommercial message may be substituted for any allowed commercial message or any other allowed noncommercial message, provided that the Sign is legal without consideration of message content. If the Sign is one for which no sign permit is required, the message substitution may be made without additional approval. The purpose of this provision is to prevent inadvertent favoring of commercial speech over noncommercial speech, or favoring of any particular noncommercial message over any other noncommercial message. This provision does not allow for the substitution of an offsite commercial message in place of an onsite commercial message.

- (b) All ~~signs~~Signs shall be of sound structural quality, be maintained in good repair and have a clean and neat appearance. Land adjacent to these ~~signs~~Signs shall be kept free from debris, weeds and trash.
- (c) No part of any ~~sign~~Sign shall be located closer than ten (10) feet from a side or rear property line.
- ~~(d) — Time and/or temperature instruments may be permitted in lieu of one (1) permitted wall sign in each commercial and industrial zoning district. The time and/or temperature instrument may be a projecting sign in lieu of a wall sign. Provided that the design, size, materials, and illumination of the instrument is in harmony with the building and is architecturally compatible. The instrument shall be approved by the planning commission.~~
- (d) ~~(e)~~ Any ~~backlighted sign~~Backlighted Sign or backlighted canopy, ~~marquee~~Marquee or panel shall comply with all federal, state and local laws concerning the placement, dimensions, materials or other regulations controlling these ~~signs~~Signs; provided, however, that the dimensions of a ~~backlighted sign~~Backlighted Sign or backlighted canopy, ~~marquee~~Marquee or panel shall be measured by constructing a rectangle for the highest, lowest and widest points of the object, display or surface that displays a light source, except that the opaque surfaces immediately related to or a part of that same ~~sign~~Sign or panel shall also be calculated in the dimensions of the sign. Provided further, in calculating the dimensions of a continuous panel which spans at least eighty percent (80%) of any one (1) facade or a single common structure with multi-tenants, the continuous opaque areas between, over and below the lighted area for these independent operations shall not be calculated to determine the dimensions of the ~~signs~~Signs, canopies, ~~marquees~~Marquees, or panels. Up to twenty-five percent (25%) of the surface of any face of any ~~marquee~~Marquee, facade, or ~~wall~~Wall may be backlighted so long as it is ornamental or decorative in purpose ~~and does not employ any business and/or company logo, trademark, or pattern exclusive to a business and/or company~~. Similarly, canopies may be backlighted to the extent of twenty-five percent (25%) of the ~~wall~~Wall area to which they are attached. The backlighted area shall be in addition to signage areas otherwise allowed.
- ~~(f) — Identification of services and products shall not exceed twenty percent (20%) of the total sign surface.~~
- (e) ~~(g)~~ The background panel of all ~~semi-illuminated signs~~Semi-Illuminated Signs shall be opaque, with only the lettering illuminated. ~~(Ord. 625)~~

16-913

SERVICE STATIONS. Service stations shall be permitted the following ~~signs~~Signs:

- (a) One non-illuminated, ~~indirectly illuminated or semi-illuminated monument sign~~Indirectly Illuminated or Semi-Illuminated Monument Sign provided the ~~sign~~Sign is not closer than fifty (50) feet to any boundary of a residential district. The ~~sign~~Sign shall not exceed ten (10) feet in height nor seventy (70) square feet in ~~sign surface area~~Sign Surface per face. If not sitting within the landscaped setback, the sign base shall be located

within a curbed landscaped area, extending a minimum of three (3) feet on all sides of the sign base.

- (b) ~~No more than two signs that display fuel prices shall be permitted. These signs may be monument or wall signs, indirectly~~ Two (2) Monument or Wall Signs, Indirectly illuminated or ~~semi-illuminated signs~~ Semi-Illuminated Signs, but shall not exceed ~~15~~ fifteen (15) square feet in ~~sign surface area~~ Sign Surface each.
- (c) Each fuel pump island may have a ~~sign on each end identifying whether the island is a "full service" or "self service" island. If a service station is completely self service, a maximum of two "self service" signs shall be permitted. These signs shall not exceed~~ Sign on each end not exceeding four (4) square feet in ~~area~~ Sign Surface each.
- (d) A maximum of two ~~non-indirectly~~ Indirectly or ~~semi~~ Semi-illuminated ~~signs displaying credit card information shall be permitted. These signs shall not exceed~~ Signs not exceeding one (1) square foot in ~~area~~ Sign Surface each.
- ~~(e) Fuel pumps may display signs indicating only the type and brand name of fuel, in addition to signs required by law which shall be of minimum size and quantity.~~
- ~~(e)~~ (f) A maximum of two additional non-illuminated ~~signs~~ Signs not to exceed six (6) square feet in ~~area~~ Sign Surface and to be mounted not to exceed four (4) feet in height shall be allowed. ~~These signs may display fuel prices. (Ord. 625)~~

16-914

SIGNS PERMITTED IN CONJUNCTION WITH SPECIAL USE PERMITS.

- (a) In the case of uses authorized by a special use permit, all ~~signs~~ Signs in conjunction therewith shall be approved by the ~~planning commission~~ Planning Commission, except where private sign criteria, in accordance with Section ~~16-916, 915~~, have been previously approved for development.
- (b) In reviewing and approving the ~~signs~~ Signs, the ~~planning commission~~ Planning Commission shall take into consideration:
 - (1) the use of the facility;
 - (2) the height of the building;
 - (3) the surrounding land uses and zoning districts;
 - (4) the relationship of the site to public streets and the type of public street; and
 - (5) the topography of the site.Where appropriate, the sign regulations of the underlying zoning district or the most analogous zoning district shall be allowed. ~~(Ord. 625)~~

~~16-915~~ POLITICAL SIGNS.

- ~~(a) Political signs may be placed on private property only after permission has been granted by the owner of the property or his or her authorized agent.~~
- ~~(b) Political signs shall not be directly illuminated signs.~~
- ~~(c) The maximum permissible area of political signs shall be as follows:~~

- ~~(1) On land that is platted or developed for residential uses, and on land that is vacant and unplatted, but shown on the City's comprehensive plan as residential, these signs shall not exceed three square feet of sign surface area per face.~~
- ~~(2) On land that is zoned for commercial, office or business uses, and on land that is vacant and unplatted, but shown on the City's comprehensive plan as commercial, office or business, the sign shall not exceed 32 square feet per face. If a tract shall include land meeting the requirements of both subsections (c) (1) and (c) (2) hereof, the entire tract shall be entitled to the maximum sign size as specified in this subsection (c) hereof.~~
- ~~(d) Political signs may be pole or pylon signs, snipe signs, non affixed signs, detached signs and/or temporary signs.~~
- ~~(e) It shall be unlawful for any person to place or allow to remain on any private or public property within the City, in a stationary manner, any vehicle designed or used for the primary purpose of displaying a political sign. A vehicle that is temporarily stationed or in motion may display a political sign so long as the sign, as displayed when the vehicle is stationary, does not interfere with its ability to lawfully operate on the public streets. A vehicle shall be considered temporarily stationed when the vehicle is engaged in the regular business, transportation or work of the owner, is temporarily parked or stopped between usage, and is not used merely, mainly or primarily, to display a political sign.~~
- ~~(f) No political signs shall be positioned in a manner that may cause a hazard to life or safety.~~
- ~~(g) Political signs shall not be placed, painted, marked, written, posted or otherwise affixed to or on public property. Political signs may be placed on the unpaved area between the street lines of any street adjacent to private property that is not owned or leased by a public entity, provided the owner or agent of the adjacent private property has granted permission, and the signs comply with all other applicable City Code provisions.~~
- ~~(h) With respect to political signs, the candidate for office shall be presumed to be the person responsible for the posting of the sign, unless written notice has been given to the City of the name, address, telephone number and signed consent of the other responsible person. All notices concerning violations shall be given to the candidate, at the address listed on the election records, or to the other properly designated responsible person. Political signs relating to an identifiable group or individual shall be presumed to be the responsibility of the chairman of any organized political group publishing or represented by the sign, or any individual identified on the sign as its sponsor. All the political signs shall be presumed to be the responsibility of the owner or person in control of the private property where the sign is located.~~
- ~~(i) When the building inspector shall determine that any political sign is in violation of these regulations, the building inspector shall cause personal, telegraphic or written notice of the violation to be given to a responsible~~

~~party by the most expedient means feasible. All signs shall be abated, removed or made to conform to these regulations within twenty four (24) hours after notice is given. The notice shall indicate that unless an objection is received from a responsible party within twenty four (24) hours after receipt of that notice, all political signs that remain in violation shall be deemed to be abandoned signs and are subject to removal by the City without further notice or procedure. There shall also be a presumption that any political sign concerning a scheduled public election campaign that remains after the day of that election shall be considered an abandoned sign and subject to summary removal. The City may cause any political sign that is an immediate peril to persons or property to be removed summarily and without notice. Nothing in this section shall be deemed to make any person liable, criminally or civilly, for any political sign posted on a person's property without his or her permission by persons unknown to him or her, or by persons over whom the person has no control. (Ord. 625)~~

16-915

~~16-916~~ PRIVATE SIGN CRITERIA. All hotels and motor hotels, and shopping centers business parks, office parks or industrial parks shall be required to prepare a set of sign criteria governing all exterior ~~signs~~Signs in the development. The criteria shall be binding upon all subsequent purchasers or lessees within the development. The size, colors, materials, styles of lettering, appearance. of logos, types of illumination and location of ~~signs~~Signs shall be set out in the criteria. In all respects, the criteria shall be ~~within~~consistent with the regulations set out in this Chapter and shall be for the purpose of assuring harmony and visual quality throughout the development. Final development plans (in the case of a planned zoning district) or building permits (in the case of a conventional zoning district) shall not be approved until the governing body has approved the sign criteria. No sign permit shall be issued for a ~~sign~~Sign that does not conform to the criteria. For purposes of this section, the terms "shopping centers, business parks, office parks or industrial parks" shall mean a project of one or more buildings that has been planned as an integrated unit or cluster on property under unified control or ownership at the time that zoning was approved by the City. The sale, subdivision or other partition of the site after zoning approval does not exempt the project or portions thereof from complying with these regulations relative to the number of ~~detached signs~~Signs, harmony and visual quality of ~~signs~~Signs to be installed.

16-916

~~16-917~~ REMOVAL OF UNSAFE, UNLAWFUL OR ABANDONED SIGNS.

- (a) If the ~~building inspector~~Building Inspector shall find that any ~~sign~~Sign regulated herein is unsafe or insecure, or is a menace to the public, or, has been constructed or erected, or is being maintained in violation of this Article or Chapter ~~4,IV~~, Article 9 of the ~~City Code~~, the ~~building inspector~~Building Inspector shall give notice ~~to the permittee~~ thereof. ~~If the permittee to the permittee, or, if the Sign is one that does not require a permit, to the owner of the property on which the Sign is located. If the person so notified~~ fails to alter or remove the ~~sign~~Sign so as to comply

with the standards herein set forth within forty-eight (48) hours after notice, the ~~sign~~Sign may be removed or altered to comply with these provisions by the ~~building inspector~~Building Inspector at the expense of the permittee or owner of the property upon which the ~~sign~~Sign is located, and the permit shall be revoked. The ~~building inspector~~Building Inspector shall refuse to issue a permit to any permittee or owner who refuses to pay costs so assessed. The ~~building inspector~~Building Inspector may cause any ~~sign~~Sign which is an immediate peril to persons or property to be removed summarily and without notice.

- (b) ~~When the Building Inspector notifies a permittee or property owner that a Sign is not in compliance pursuant to subsection (a) hereof, the Building Inspector shall also inform such person of the right to file an appeal with the Board of Zoning Appeals contesting the Building Inspector's determination.~~
- (c) ~~(b)~~-If the time period set forth in subsection (a) hereof has elapsed and the ~~sign or signs have~~Sign has not been removed, the ~~building inspector~~Building Inspector shall send written notification by certified mail, return receipt requested, to the record owner of the property on which the ~~sign~~Sign is located indicating when the ~~sign~~Sign shall be removed. If the ~~sign~~Sign has not been removed within thirty (30) days after receipt of the notice, the City may have the ~~sign~~Sign removed and the cost assessed to the property owner.
- (d) ~~(e)~~-Where a ~~sign~~Sign has been removed by the City pursuant to subsection ~~b(c)~~ hereof, the ~~city clerk~~City Clerk shall mail a statement of the cost of removal of that ~~sign or signs~~Sign to the last known address of the record owner or persons in charge of the property. If the cost is not paid within ten (10) days from the mailing of the notice, the ~~governing body~~Governing Body shall proceed to pass an ordinance levying a special assessment for the cost against the lot or piece of land and the ~~city clerk~~City Clerk shall certify the assessment to the ~~county clerk~~County Clerk for collection of payment the same as other assessments and taxes are collected and paid to the City.
- (e) ~~(d)~~-If a building, structure or premise is a vacated for a six- (6) month period of time, the owner of that property shall be responsible for removing any ~~signs~~Signs located thereon with the exception of one Wall Sign in the case of property located in a commercial and industrial sales or leasing signs district, and with the exception of one Yard Sign in the case of property located in a residential district. In addition, the owner shall be responsible for restoring the facade of the building, structure or premise to its normal appearance. ~~(Ord. 625)~~

16-917

16-918 PROHIBITION AND AMORTIZATION OF NONCONFORMING SIGNS.

- (a) All ~~nonconforming signs~~Nonconforming Signs that existed on May 25, 1994, shall be discontinued and removed within 5 1/2 years of the effective date hereof. No changes in the basic structure, source of illumination, location or appearance of a ~~sign, sign alteration, or sign~~

~~refacing~~Sign, Sign Alteration, or Sign Refacing shall be made to any ~~sign~~Sign. If the business to which the ~~sign~~Sign is related should move to another site (which move, in the opinion of the ~~building inspector~~Building Inspector, creates, in effect, an ~~outdoor advertising sign~~Outdoor Advertising Sign) then the ~~sign~~Sign shall be removed or otherwise brought into full compliance with all applicable provisions of the Code.

- (b) Upon application to the ~~city clerk~~City Clerk, the ~~governing body~~Governing Body may extend the time for discontinuance and/or removal of a ~~nonconforming sign~~Nonconforming Sign. No extension of time shall be granted for a period of time longer than that necessary to allow the owner of the ~~sign~~Sign to recoup the owner's initial investment in the nonconforming sign. The application for extension shall be on a form provided by the City and shall be accompanied by:
- (1) a copy of the original sign permit issued for the ~~nonconforming sign~~Nonconforming Sign or other evidence satisfactory to the City of the date upon which the ~~nonconforming sign~~Nonconforming Sign was initially installed;
 - (2) evidence that annual sign inspections in accordance with Chapter ~~4, IV~~, Article 9 have taken place each year since the initial date of installation of the ~~nonconforming sign~~Nonconforming Sign;
 - (3) documentation evidencing the initial cost of purchase or construction and installation of the ~~sign~~Sign;
 - (4) if the ~~nonconforming sign~~Nonconforming Sign is not on property owned by the ~~sign~~Sign owner, the lease or other document establishing the ~~sign~~Sign owner's right to place the sign at its present location and all amendments thereto; and
 - (5) all documents evidencing the degree to which the value of the sign has been depreciated for income tax or other purposes.
- (c) In determining whether to grant the extension and the length of the extension, if one is to be granted, the governing body shall consider the following:
- (1) The nature of the ~~nonconforming sign~~Nonconforming Sign;
 - (2) The character of the ~~sign~~Sign;
 - (3) The location of the ~~sign~~Sign;
 - (4) That part of the owner's total business that will be impacted by the removal or replacement of the ~~nonconforming sign~~Nonconforming Sign;
 - (5) The ~~sign~~Sign owner's original capital investment in the ~~nonconforming sign~~Nonconforming Sign;
 - (6) The investment realization from the ~~nonconforming sign~~Nonconforming Sign to date;
 - (7) Depreciation taken by the owner of the sign for income tax or other purposes;
 - (8) The life expectancy of the ~~nonconforming sign~~Nonconforming Sign;
 - (9) The existence or non-existence of lease obligations;

- (10) The existence of a contingency clause in any lease permitting termination of the lease;
- (11) The other economic uses of any leasehold interests in the land or structure upon which the ~~sign~~Sign is located;
- (12) The value of, or feasibility of, subleases and assignments of any lease.
- (13) The extent to which the investment of the owner in the ~~nonconforming sign~~Nonconforming Sign has been recouped;
- (14) The fact that similar ~~signs~~Signs are prohibited in the same area;
- (15) Other reasonable uses of the land;
- (16) The salvage value of the ~~nonconforming sign~~Nonconforming Sign;
- (17) The ~~sign~~Sign owner's loss of sharing revenue, if any; and
- (18) The ability of the ~~sign~~Sign owner to transfer the ~~nonconforming sign~~Nonconforming Sign to another location where it could be placed and would be in compliance with this Article and all other provisions of the Code. (~~Ord. 625~~)

16-918 ~~16-919~~ APPROVAL OF VARIANCES. Any variance from these regulations may be approved only by the ~~board~~Board of ~~zoning appeals~~Zoning Appeals after an application for a permit has been denied for the proposed ~~sign~~Sign by the ~~building inspector~~Building Inspector as provided in these regulations. (~~Ord. 625~~)

16-919 SEVERABILITY. Severability is intended throughout and within the provisions of this Article. If any section, subsection, sentence, clause, phrase or portion of this Article is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Article.

Document comparison by Workshare Professional on Thursday, January 21, 2010
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Rendering set	standard

Legend:	
Insertion	
Deletion	
Moved from	
<u>Moved to</u>	
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Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

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ARTICLE 9. SIGN REGULATIONS

16-901 PURPOSE. The purpose of this Article is to create the framework for a comprehensive and balanced system of content- and viewpoint-neutral regulation of signs to facilitate easy and pleasant communication between people while protecting the First Amendment rights of resident individuals and businesses of the City and preserving and improving the quality of the City's environment by avoiding visual clutter harmful to traffic and pedestrian safety, property values, business opportunities, and community appearance. With these purposes in mind, it is the intent of these regulations:

- (a) to authorize the use of Signs that are
 - (1) compatible with their surroundings,
 - (2) appropriate to the activity that displays them,
 - (3) expressive of the identity of individual activities and the community as a whole, and
 - (4) legible under the circumstances in which they are seen; and
- (b) to ensure that Nonconforming Signs are eliminated in the City after a reasonable grace period that allows Sign owners to recoup their initial investments in those Nonconforming Signs.

16-902 FINDINGS. The Governing Body hereby finds that:

- (a) Sign regulations may impact First Amendment rights and that these rights are important constitutional rights that must be protected;
- (b) Unregulated signage has direct and secondary effects that are harmful to the safety and general welfare of the City as a whole and to its individual citizens;
- (c) These direct and secondary effects result from the visual clutter that occurs as a result of the unregulated installation and lack of maintenance of Signs;
- (d) These direct and secondary effects include harm, to traffic and pedestrians' safety, depreciation of property values within the City, decreased business opportunities for individual and business residents of the City (resulting in decreased sales, property and other tax revenues that are necessary to provide an adequate level of public service to City residents), community blight, and an overall less pleasing community appearance;
- (e) Because of these direct and secondary effects, the City has a compelling interest in regulating Signs within the City;
- (f) For the most part, these regulations are content- and viewpoint-neutral, reasonable time, manner and place restrictions that directly advance the City's stated interests;
- (g) To the extent that certain provisions of these regulations are content-based, they are intended for further compelling governmental interests;
- (h) The scope of the regulations is proportionate to the interests served and narrowly tailored to achieve the desired objective;
- (i) A direct nexus exists between the desired City's goals and the means chosen in these regulations to achieve its desired goals;

- (j) The goals of this ordinance cannot be fully achieved if existing Signs, which do not conform to the regulations contained herein, are allowed to remain as they exist on the effective date of this ordinance for an unlimited amount of time; therefore, a grace period of five and one half (5 1/2) years is hereby established to allow the owners of existing, Nonconforming Signs a reasonable period of time to conform these Signs to the provisions of this ordinance or remove them, which grace period shall end on November 25, 1999;
- (k) The strict application of this grace period to all Nonconforming Signs, in some unique situations, may be unreasonable and therefore this ordinance provides a procedure that allows the owners of certain Nonconforming Signs to establish that the strict application of the grace period would result in substantial loss to the owner of the Sign and, therefore, that the grace period for a particular Sign should be extended for a designated amount of time;
- (l) The establishment of this grace period and the a procedure for extension of the grace period strikes a reasonable balance between the interest of the general public sought to be achieved by this ordinance and the interest of affected owners of Nonconforming Signs;
- (m) Although the expression of political speech is an important constitutionally protected right, under certain circumstances, it may be necessary to regulate the time, place and manner of the expression of such speech in order to advance and protect other compelling legitimate interests of local government;
- (n) Temporary Signs have certain characteristics that distinguish them from many of the other types of Signs permitted and regulated by the City, specifically including the fact that many of these Signs, do not meet the regular structural and insulation requirements necessary to prevent them from being affected by weather and other natural forces and therefore present a potential hazard to persons and property; severe weather conditions, including, without limitation, thunderstorms with accompanying high winds, tornadoes, ice accumulation and flooding, are characteristic of local weather conditions;
- (o) A primary and compelling interest of the City is the ability of the City, other governmental entities and utilities to erect Official Signs and other warnings to protect the public without being subject to regulation;
- (p) A primary and compelling interest of the City is to allow property owners to display Legal Postings without being subject to regulation;
- (q) A primary and compelling interest of the City is to promote vehicular and pedestrian safety on private property by allowing Directional Signs to be posted without being subject to regulation;
- (r) A primary and compelling interest of the City is the safety and security from harm residents' families and homes, and Signs displaying the existence of home security systems and neighborhood watch programs serve that interest; and

- (s) A primary and compelling interest of the City is the ability of the police and fire departments to easily identify residents or addresses in emergency situations, and therefore the ability of residents and businesses to erect Identification Signs and Name Plate Signs serves that interest.

16-903

DEFINITIONS. For purposes of this Article, the following words and terms shall be defined as follows:

- (a) "A-Frame or Sandwich Sign" means any Sign supported from the ground utilizing one or more rear supporting braces, in which the combination of the sign and supports forms the letter "A," in the manner of a artist's easel.
- (b) "Abandoned Sign" means any Sign on any building, structure or premises that has been vacated for a six (6) month period of time.
- (c) "Attention-Attracting Device" means a device with flashing, blinking, rotating, twirling or moving action, a changeable copy sign on which the message changes more than eight (8) times per day, but not including a search light, or a balloon or an air or gas filled object designed or intended to attract the attention of the public to an establishment or to a Sign.
- (d) "Backlighted Sign" means any Sign that displays direct or indirect light from the back of that Sign through a transparent, translucent or open material.
- (e) "Banner" means any Sign of lightweight fabric or similar material that is permanently mounted to a pole or a building by a permanent frame at one or more edges. National, state or municipal flags, or the official flag of any institution or business shall not be considered a Banner.
- (f) "Building Inspector" means the building official of the City of Roeland Park, Kansas, or other designated authority charged with the administration or enforcement of the provisions of this Article, or his or her duly authorized representatives.
- (g) "Canopy Sign" means any Sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A Marquee is not a canopy.
- (h) "Changeable Copy Sign" means a Sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the Sign Surface.
- (i) "Code" means the Code of the City of Roeland Park, Kansas, as hereinafter amended.
- (j) "Commercial Sign" means any Sign that directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.
- (k) "Curb Line" means the line at the face of the curb nearest to the street or roadway. In the absence of a curb, the curb line shall be established by the Building Inspector.
- (l) "Detached Sign" means a Sign located on the ground or on a structure located on the ground and not attached to a building.
- (m) "Directional Sign" means any Sign that provides direction for the safe and efficient flow of vehicular or pedestrian traffic on a property, and shall

includes signs marking entrances, exits, parking areas, loading areas or other operational features of the premises.

- (n) "Directly Illuminated Sign" means any Sign the source of illumination of which is exposed to the human eye, such as, but not limited to, an incandescent bulb or fluorescent tube.
- (o) "Holiday Decorations" means displays erected on a seasonal basis in observance of religious, national or state holidays that are not intended to be permanent in nature and that do not constitute Commercial Signs.
- (p) "Identification Sign" means any Sign or set of numerals or letters that denotes a principal building's location with respect to streets or to those home or buildings around the principal building.
- (q) "Indirectly Illuminated Sign" means any Sign that is partially or completely illuminated at any time by a light source that is a shielded so as to not be visible at eye level.
- (r) "Legal Posting" means any Sign intended to convey a legal right or restriction on a property, such as a "no trespassing" sign; a Sign intended to warn the public of a bona fide danger on the property, such as a "beware of dog" sign; or a Sign placed by order of a court or by a government official in the normal course of their duties.
- (s) "Marquee" means any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed, and constructed to provide protection from the weather.
- (t) "Marquee Sign" means any Sign attached to, or in any manner made a part of a Marquee.
- (u) "Monument Sign" means a Detached Sign the width of which is a minimum of one and one half (1-1/2) times the width of the widest part of Sign Surface and the base of which consists of two (2) or more supports and the height of the base is not more than two (2) feet above the average grade of the ground. The base of a Monument Sign shall be architectural in nature and utilize materials consistent with the design of the building it is identifying.
- (v) "Name Plate Sign" means any single-faced, non-illuminated Wall Sign that displays only the name and/or occupation of the person or persons occupying space in a building. Name Plate Signs may be incorporated within a Wall Sign, and shall otherwise be subject to regulations restricting Wall Signs.
- (w) "Neon Sign" means a Directly Illuminated Sign for which the light source is luminescent gas.
- (x) "Non-Affixed Sign" means any Sign that is not permanently affixed to a building, structure or the ground.
- (y) "Noncommercial Sign" means any Sign that is not a Commercial Sign.
- (z) "Nonconforming Sign" means any Sign that does not comply with the sign provisions of this Article or any other applicable provision of the Code.
- (aa) "Official Sign" means any Sign installed or erected by a governmental body or agency or by a public utility such as traffic signs, signals,

regulatory devices or warnings; signs designating properties or structures officially designated by the federal, state or local government as being of historical significance; or other similar Signs.

- (bb) "Outdoor Advertising Sign" means any Sign advertising or directing attention to a name, a business, product, development, project, or service that is offered, manufactured, or sold at a location other than the premises upon which the sign is situated (commonly known as a billboard).
- (cc) "Pole or Pylon Sign" means a Detached Sign supported by uprights, braces, columns, poles, or other vertical members that are not attached to a building.
- (dd) "Portable Sign" means any Sign designed to be transported, including, but not limited to, Signs designed to be transported by means of wheels; Signs converted to an A-Frame or Sandwich Sign; balloons or other gas or air filled objects used as Commercial Signs; and Signs attached to or painted on vehicles parked and visible from the public right-of-way, unless that vehicle is used in the normal day-to-day operations of the business.
- (ee) "Projecting Sign" means any Sign located on the face of the building extending more than one (1) foot from the face of the building to which it is attached.
- (ff) "Public Property," for the purposes of this Article only, means:
 - (1) Any public building or premise owned by a governmental entity;
 - (2) any sidewalk, public bridge, crosswalk, curb, paved portion of any street or highway, or the median strip of any divided street or highway;
 - (3) the unpaved area between the street lines of any street adjacent to a tract of land owned or leased by a governmental entity;
 - (4) any street sign or any traffic sign or signal;
 - (5) any telephone, telegraph, electric wire, power, street lamp post or any other utility pole or line, or any fire hydrant;
 - (6) any tree or other vegetation on public property, including without imitation those in between the street lines of a public street; and
 - (7) any public park, open space area, bench, drinking fountain, or other property owned or leased by a governmental entity and used for governmental purposes.
- (gg) "Roof Sign" means any Sign erected, constructed and maintained fully upon or over the roof or parapet of a building or structure and having the roof or parapet as its principle means of support.
- (hh) "Semi-illuminated Sign" means any Sign located on a building face that is uniformly illuminated over the Sign Surface by use of electricity or other artificial light.
- (ii) "Sight Distance Triangle" means the two (2) areas on all corner lots within the triangles formed by a short leg fifteen (15) feet long and a long leg one hundred-forty (140) feet, both distances measured along the curblineline or edge of the pavement.
- (jj) "Sign" means any framed, bracketed, free-form, or engraved surface, and the support therefor, that is fabricated to create words, numerals, figures,

devices, designs, trademarks, or logos, and that is mounted on or affixed to a building, structure, or the ground, and that is visible to persons not located on the premises where the Sign is located, with the purpose of attracting the attention of these persons or communicating information to them.

- (kk) "Sign Alteration" means the replacement, enlargement, reduction, reshaping, changing or adding to a Sign, or Sign Structure or other supporting members.
- (ll) "Sign Maintenance" means the normal care and minor repair necessary to retain a safe, attractive and finished Sign, Sign Surface or Sign Structure. Changing copy or a logo on a Sign Surface without increasing Sign dimensions shall be considered Sign Maintenance if the information, product or service depicted remains the same and if the Sign is to serve the identical establishment using the same business firm name as before the change.
- (mm) "Sign Refacing" means changing or replacing the words, numerals or other aspects of the Sign Surface to serve a different establishment or business, or to create a substantially different visual effect without alternating, moving or replacing the Sign, Sign Structure, or Sign Surface.
- (nn) "Sign Structure" means the support, poles, upright bracing or brackets and framework for any Sign that is mounted on or affixed to a building, structure or the ground.
- (oo) "Sign Surface" means the entire area within a square, circle, rectangle, triangle or combination thereof that encompasses the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the Sign from the backdrop or structure against which it is placed, but not including the Sign Structure.
- (pp) "Snipe Sign" means any Sign made of material such as cardboard, paper, pressed wood, plastic or metal that is attached to a fence, window, tree, utility pole or temporary structure or any Sign that is not securely fastened to a building or structure or firmly anchored to the ground.
- (qq) "Street Line" means the dividing line between the street right-of-way and the abutting property.
- (rr) "Temporary Sign" means any Sign intended to be displayed for a limited period of time on public or private property; is typically constructed from nondurable materials, including paper, cardboard, cloth, plastic or wallboard; and does not constitute a structure subject to the Building Code.
- (ss) "Two-Faced Sign" means a Sign with two (2) sign faces and where the angle of separation of the faces is not greater than ninety percent (90%).
- (tt) "Wall" means the exterior or surface of a building or structure. For the purposes of the sign provisions of this Article, Walls shall include mansard-type or sloped-roof structures.

- (uu) "Wall Bulletin" means any Sign painted on a Wall or a painted Sign or poster that is attached to but does not project more than twelve (12) inches from the building or structure.
- (vv) "Wall Sign" means any Sign attached to and erected parallel to and within one (1) foot of the face or Wall of a building, including Wall Bulletins.
- (ww) "Window Sign" means any Sign that is placed on the inside of a window or upon the windowpanes and is visible from the exterior of the window.
- (xx) "Yard Sign" means a non-illuminated Sign constructed of durable materials that is supported by one or more uprights, posts, or bases placed upon or affixed in the ground and not attached to any part of a building.

16-904 REGULATIONS GENERALLY. Other than lawful Nonconforming Signs, no signs shall be permitted in any zoning district of the City except in accordance with these provisions.

16-905 COMPUTATIONS. The following principles shall control the computation of Sign Surface and Sign height.

- (a) Computation of Sign Surface of individual signs. The area of a Sign Surface (that is also the sign area of a Wall Sign or any or other Sign with only one "face") shall be computed by measuring the area of the smallest circle, square, rectangle, triangle or combination thereof that will encompass the extreme limits of the writing, representation, emblem or other display, together with any material or color forming integral part of the background of the Sign or used to differentiate the Sign from the backdrop or Sign Structure against which it is placed, but not including the Sign Structure or decorative fence or Wall between the fence or Wall otherwise meet zoning ordinance regulations and that is clearly incidental to the display itself.
- (b) Computation of area of multi-face Signs. The Sign Surface for a Sign with more than one face shall be computed by adding together the area of all Sign Surfaces on the Sign.
- (c) Computation of height. The height of a Sign shall be computed as the distance from the base of the Sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lowest of (a) existing grade prior to construction, or (b) the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the Sign. In cases in which the normal grade cannot reasonably be determined, Sign height shall be computed on the assumption that the elevation of the normal grade at the base of the Sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the zoned lot, whichever is lower.

16-906 PROHIBITED SIGNS. The following types of Signs shall be prohibited, except where specifically permitted in this Article:

- (a) Any Sign that is not otherwise included as a type of Sign authorized hereby.
- (b) Any Sign that prevents free ingress to or egress from any door, window, or fire escape.
- (c) Any Sign that obstructs the view within the Sight Distance Triangle of a street intersection or that interferes with the view necessary for motorists to proceed safely through intersections or to enter onto or exit from public or private streets.
- (d) Any Outdoor Advertising Sign.
- (e) Any Non-Affixed Sign.
- (f) Any Roof Sign, Banner, Portable Sign, pennant, searchlight, A-frame or Sandwich Sign, or Snipe Sign.
- (g) Any Directly Illuminated Sign, Indirectly Illuminated Sign or Semi-Illuminated Sign.
- (h) Any Neon Sign.
- (i) Any Pole or Pylon Sign.
- (j) Any Sign located on public property.
- (k) Any Sign that, by reason of its size, location, movement, content, coloring, or manner of illumination, may be confused with or construed as a traffic-control sign, signal or device, or the light of an emergency vehicle or that hides from view any traffic or street sign or signal or device.
- (l) Any Sign giving false statements concerning zoning or land use.
- (m) Any Abandoned Sign.
- (n) Any Sign containing a message that is obscene, as that term is defined in K.S.A. 21-4301(c), and any amendments thereto.
- (o) Any Sign containing false or misleading advertising.
- (p) Any Changeable Copy Sign, except on churches, public or private schools, or public buildings, theater listing signs, and service station price signs.
- (q) Any Attention-attracting Device.

16-907 SIGN PERMIT REQUIRED; WHEN; APPLICATION PROCEDURES.

- (a) Except as otherwise provided in Section 16-908, no Sign shall be installed, erected or set in place, nor shall any Sign Alteration or Sign Refacing occur, until a sign permit has been issued by the Building Inspector and until a sign permit fee as set forth in Chapter IV, Article 9 of the Code is paid.
- (b) Any person desiring to erect a Sign for which a permit is required shall submit an application to the City Clerk on a form provided by the City that shall contain the following information:
 - (1) name, address and telephone number of the applicant;
 - (2) location of building, structure or lot to which or upon which the Sign is to be attached or erected;
 - (3) position of the Sign in relation to nearby buildings or structures, streets and sidewalks;
 - (4) drawing of the Sign and specifications describing the Sign;
 - (5) length of time the Sign will be displayed;

- (6) written consent of the owner of the building, structure or land to which or on which the Sign is to be attached or erected, including the owner's address and phone number;
 - (7) other information as the City Clerk and/or Building Inspector shall require to show full compliance with this Article and all other provisions of the Code.
- (c) When the sign permit application is complete, the City Clerk shall forward the application to the Building Inspector. It shall be the duty of the Building Inspector, upon receipt of the application, to review the application and to conduct other investigation as is necessary to determine the application's accuracy. If the applicant has provided the information requested in the application, the information is accurate and it appears that the proposed Sign will comply with this Article and all other applicable provisions of the Code, the Building Inspector shall issue a sign permit. All issued sign permits shall contain the number of the permit and the date the permit is issued. If the Building Inspector determines that the proposed sign is not in compliance with all requirements of the Code, the Building Inspector shall notify the applicant in writing that the requested permit will not be issued, state in the notice the reasons for the denial, and inform the applicant of his or her right to appeal the Building Inspector's determination to the Board of Zoning Appeals. The Building Inspector shall either issue or deny the sign permit within thirty (30) days of the date the City Clerk receives the application for the permit. If, on the thirtieth (30th) day after the City Clerk received the application, the application is not complete, the Building Inspector shall deny the requested permit.
- (d) Any person aggrieved by the denial of an application for a sign permit by the Building Inspector may appeal the Building Inspector's refusal to the Board of Zoning Appeals by giving written notice to the City Clerk not later than twenty (20) days after notice of the Building Inspector's refusal to issue the requested sign permit. In any appeal, the Board of Zoning Appeals shall review the action of the Building Inspector at its next regularly scheduled meeting, but not later than thirty (30) days after notice of appeal is received by the City Clerk, and if it determines that the action of the Building Inspector was incorrect, shall order the issuance of the permit under the terms and conditions as are appropriate.
- (e) In certain instances, as specifically designated in these regulations, the Planning Commission shall consider and approve or deny sign permit applications. In this instance, the Building Inspector shall not issue a sign permit unless the Planning Commission has first approved the subject sign permit application. The Planning Commission shall consider the sign permit application within the time frames set forth hereinabove for the Building Inspector to either issue or deny the sign permit. If the Planning Commission denies the sign permit application, the applicant may appeal the Planning Commission's denial to the Governing Body by giving written notice to the City Clerk not later than twenty (20) days after the Planning Commission's denial. The applicant shall be provided written

notice of the Planning Commission's consideration of the sign permit application and the Governing Body's review of the applicant's appeal of the Planning Commission's denial, if the appeal is requested. The Governing Body shall consider the sign permit applicant's appeal at its next regularly scheduled meeting and the time frame for the Building Inspector to issue or deny the sign permit shall be deferred until two (2) working days after the Governing Body has heard the sign permit applicant's appeal.

- (f) All rights and privileges acquired pursuant to this Article, or any amendment hereto, are mere licenses and are revocable at any time by the City for cause, and all permits shall contain this provision.
- (g) All Signs hereafter installed shall have permanently affixed thereto a label clearly visible at all times indicating the number of the sign permit.

16-908 **SIGNS EXCLUDED FROM SIGN PERMIT REQUIREMENT.** The following Signs are not required to obtain a permit, however, these Signs shall otherwise comply with this Article and all other applicable provisions of the Code.

- (a) Sign Maintenance.
- (b) Directional Signs.
- (c) Holiday Decorations.
- (d) Home security and neighborhood watch signs.
- (e) Identification Signs.
- (f) Legal Postings.
- (g) Name Plate Signs.
- (h) Official Signs.
- (i) Window Signs.
- (j) Flags, pennants or insignia of any governmental body, public or private school, church, synagogue or other place used primarily for worship, community centers, or other public, semi-public, or civic organizations or other similar noncommercial entity, when not displayed in connection with a commercial promotion or as an advertising device, and; provided that, not more than three flags, pennants or insignia shall be displayed on any building, structure or premises.
- (k) Integral decorative or architectural features of buildings, so long as these features do not contain letters, trademarks, moving parts or lights.
- (l) Decorative landscape markers, which may include logos or trademarks.
- (m) Signs on or adjacent to doors at the rear of commercial or industrial buildings displaying only the names and addresses of the occupants. Where multiple tenants share the same rear door, the sign may display the name and address of each tenant. These signs shall not exceed four (4) square feet.
- (n) Signs painted or otherwise permanently attached to a currently licensed motor vehicle, which vehicle is not primarily used as a Sign.
- (o) Temporary signs at churches, synagogues and other similar places of worship, community centers, public and private schools and buildings or structures owned or leased and used by other public, semi-public, or civic organizations.

16-909 SIGNS PERMITTED IN ALL DISTRICTS.

- (a) Churches, synagogues, and other similar places of worship, schools, libraries, community centers, or other public or semi-public facilities shall be allowed two (2) Wall Signs, with not more than one (1) on each facade. No Sign shall have a Sign Surface area exceeding twenty-five (25) square feet. In lieu of one (1) of the Wall Signs, one (1) Monument Sign shall be permitted. The Monument Sign shall be located on the premises, be not less than ten (10) feet from the street line, and the Sign Surface of each sign face shall not exceed twenty-five (25) square feet in area per face. The height of the Sign shall not exceed five (5) feet; provided, that for each two (2) foot setback from the street line in excess of ten (10) feet, one (1) additional foot may be added to the height of the Sign to a maximum of eight (8) feet.
- (b) One Directional Sign shall be permitted at each entrance to a building site. These Signs may be a pole or pylon sign, single- or two-faced and shall not exceed three (3) feet in height, and four (4) square feet of Sign Surface per face. These Signs may indicate entrances, exits, addresses, direction of traffic-flow and the location of loading docks, parking areas, delivery doors, drive-through lanes and similar facilities. The Sign shall be located on the premises and shall be set back from the street line a minimum of three (3) feet.
- (c) Official governmental jurisdiction flags, including flags indicating weather conditions, and flags that are emblems of religious, charitable, public and nonprofit organizations. No flag shall exceed fifty (50) square feet in area.
- (d) Noncommercial Signs, provided that these Signs shall conform to all Sign Surface and sign type area, height, setback, location, construction and maintenance requirements applicable to all other Signs in the zoning district in which the Noncommercial Sign is located as set forth in this Article or any other applicable provisions of the Code.
- (e) No sign shall be displayed on private property without the written consent of the owner or occupant of the property on which the Sign is displayed.

16-910 SIGNS ALLOWED IN THE SINGLE-FAMILY RESIDENCE, DUPLEX RESIDENCE AND MULTI-RESIDENCE DISTRICTS.

- (a) One Yard Sign is permitted on any lot. The sign shall have a Sign Surface not more than six (6) square feet in area with a maximum height of six (6) feet, and shall be set back a minimum of ten (10) feet from the street line.
- (b) An unlimited number of window signs is permitted. The Sign Surface of any single Window Sign shall not exceed three (3) square feet.
- (c) Three (3) Temporary Signs are permitted on any lot. All Temporary Signs shall have a Sign Surface no larger than three (3) square feet, shall be no more than two and one half (2 ½) linear feet wide, and with a maximum height of three and one half (3 ½) feet above grade. All Temporary Signs shall be set back a minimum of ten (10) feet from the street line. No

Temporary Sign shall obstruct or impair access to a public sidewalk, public or private street or driveway, traffic control sign, bus stop, fire hydrant or any type of street furniture, or otherwise create a hazard, including a tripping hazard. Temporary Signs shall not be posted on trees or utility poles. No Temporary Sign shall be illuminated or painted with light-reflecting paint. A Temporary Sign may be posted for so long as it remains in good condition. Once a Temporary Sign is tattered or otherwise is no longer in good condition, it shall be removed or replaced. If the Building Inspector determines that a Temporary Sign is not in good condition, the property owner shall be notified of that determination and shall remove or replace the sign within three (3) days of such notification. Signs which are not removed or replaced within three (3) days of such notification shall be deemed a nuisance and shall be subject to abatement in accordance with the provisions of Chapter VIII, Article 3, of the Code. The Building Inspector's determination that a Temporary Sign is not in good condition may be appealed to the Board of Zoning Appeals. Any appeal to the Board of Zoning Appeals shall stay any abatement proceedings during the time the matter is pending before the Board of Zoning Appeals.

16-911 SIGNS PERMITTED IN COMMERCIAL AND INDUSTRIAL DISTRICTS.

- (a) To the extent that a residential land use is permitted in a commercial or industrial zoning district, signs for a residential land use shall be permitted as in the single-family, duplex residential and multi-residence districts.
- (b) In all commercial and industrial districts, one (1) Window Sign is permitted in lieu of any Sign permitted by this Article, provided that, the Window Sign shall not have a Sign Surface exceeding eight (8) square feet.
- (c) In all commercial and industrial districts, one (1) Temporary Sign is permitted on any lot. All Temporary Signs shall have a Sign Surface no larger than three (3) square feet, shall be no more than two and one half (2 ½) linear feet wide, and with a maximum height of three and one half (3 ½) feet above grade. All Temporary Signs shall be set back a minimum of ten (10) feet from the street line. No Temporary Sign shall obstruct or impair access to a public sidewalk, public or private street or driveway, traffic control sign, bus stop, fire hydrant or any type of street furniture, or otherwise create a hazard, including a tripping hazard. Temporary Signs shall not be posted on trees or utility poles. No Temporary Sign shall be illuminated or painted with light-reflecting paint. A Temporary Sign may be posted for so long as it remains in good condition. Once a Temporary Sign is tattered or otherwise is no longer in good condition, it shall be removed or replaced. If the Building Inspector determines that a Temporary Sign is not in good condition, the property owner shall be notified of that determination and shall remove or replace the sign within three (3) days of such notification. Signs which are not removed or replaced within three (3) days of such notification shall be deemed a

nuisance and shall be subject to abatement in accordance with the provisions of Chapter VIII, Article 3, of the Code. The Building Inspector's determination that a Temporary Sign is not in good condition may be appealed to the Board of Zoning Appeals. Any appeal to the Board of Zoning Appeals shall stay any abatement proceedings during the time the matter is pending before the Board of Zoning Appeals.

(d) Office building and planned office building districts.

- (1) In the office building and planned office building districts, not more than three (3) Wall Signs shall be permitted on each office building, no more than one (1) Sign on any facade. No Sign shall have a Sign Surface area exceeding seven percent (7%) of the area of the wall upon which it is mounted.
- (2) In lieu of the Wall Signs, one Monument Sign for each building shall be permitted. The Sign shall not exceed five (5) feet in height and the Sign Surface shall not exceed fifty (50) square feet per face if located at least ten (10) feet from the street line of public street or private street curb line. For each additional two (2) foot setback from the street line of a public street or a private street curb line over ten (10) feet, one (1) additional foot may be added to the height of the Sign to a maximum of ten (10) feet. If not sitting within the landscaped setback, the sign base shall be located within a curbed landscaped area, extending a minimum of three (3) feet on all sides of the sign base.
- (3) In lieu of one (1) Wall Sign, one (1) Marquee Sign or one (1) Canopy Sign shall be permitted. The Sign shall be first approved by the Planning Commission.

(e) Retail business and planned restricted business districts.

- (1) In retail business and planned restricted business districts, Wall Signs as indicated above for office building and planned office building districts shall be permitted except that these Signs shall be allowed for each business or commercial establishment in a multi-tenant building and shall be located on the facade of the tenant space. These Signs may be Indirectly Illuminated or Semi-Illuminated, but shall not extend above the height of the Wall upon which they are mounted, and any wall bulletin shall not be larger than ten (10) square feet in area. In addition, one (1) non-illuminated Wall Sign, with a Sign Surface not more than six (6) square feet, may be placed at each major entrance to a multi-tenant building.
- (2) In lieu of one of the Wall Signs, one Monument Sign for each building shall be permitted. The Sign shall not exceed five (5) feet in height and the Sign Surface shall not exceed fifty (50) square feet per face if located at least ten (10) feet from the street line of a public street or private street curb line. For each additional two (2) foot set back from the street line of a public street or private street curb line over ten (10) feet, one (1) additional foot may be added to

the height of the sign, to a maximum of ten (10) feet. If not sitting within the landscaped setback, the sign base shall be located within a curbed landscaped area, extending a minimum of three (3) feet on all sides of the sign base.

- (3) In lieu of one (1) Wall Sign, one (1) Projecting Sign of the same area as the Wall Sign replaced shall be permitted, provided that no Projecting Sign shall extend more than three (3) feet from the face of the building or one third (1/3) of the sidewalk width from the wall of the supporting building, whichever is less. The lower edge of a Projecting Sign shall be no closer than ten (10) feet to any sidewalk or fourteen (14) feet to any street or alley surface where vehicles may pass below. The upper edge of a Projecting Sign shall neither stand vertically above the eave line of a single structure nor above the second-story sill line of a multi-story structure. All Projecting Signs shall be attached at right angles to the supporting structure and may be anchored no more than six (6) inches from the structure.
- (4) In lieu of one (1) Wall Sign, one (1) Neon Sign shall be permitted, with a Sign Surface not exceeding ten (10) square feet. Any Neon Signs located within the building and within forty-eight (48) inches of any window or door and visible from outside of the building shall constitute the Neon Sign allowed in lieu of a Wall Sign. Retail liquor stores so licensed by the Kansas Division of Alcoholic Beverage Control using a Neon Sign shall be further limited to a Sign that has a border, lettering, figure or design of the Sign or tubing that is not more than four (4) inches high or three (3) inches wide, restricted to lines that shall be not more than one (1) inch apart, only one (1) line shall be allowed to be in excess of three (3) feet in length, and any border shall not allow the Sign Surface to exceed ten (10) square feet. Any retail liquor store sign shall be located on the corner of a window or on the door. In addition, retail liquor stores shall be allowed to use interior neon tubing to partially or fully outline a window or windows providing that neon tubing does not flash, blink, rotate or move. The neon border shall not be permitted to be wider than a maximum of four (4) inches. In measuring the area of the sign or tube, a rectangle shall be constructed from the highest, lowest and widest points where the sign or tube, exists, and the area shall be calculated to include all that area within the rectangle. In no event shall a Neon Sign be used on any facade of the main structure except as otherwise provided herein. No Neon Signs shall blink, flash or otherwise be used to display intermittent lighting sequences or to simulate motion. Neon signs shall be installed, wired and inspected in accordance with the National Electrical Code, as it may be amended.

- (5) In lieu of one (1) Wall Sign, one (1) Marquee Sign or one (1) Canopy Sign shall be permitted. The Sign shall be first approved by the Planning Commission. If a development plan is required for the use, the Marquee Sign or Canopy Sign shall be approved at the time of final development plan approval.
- (6) Drive-through restaurants and car washes may have two (2) single-faced Signs located in conjunction with a drive-through lane. The Sign shall not exceed eight (8) feet in height or thirty-two (32) square feet of Sign Surface per face.
- (7) In the case of a shopping center designated as one unified entity and consisting of one or several attached or free-standing buildings, one Indirectly or Semi-Illuminated Monument Sign, in addition to all other authorized Signs may be permitted. The Monument Sign shall not exceed five (5) feet in height, with the Sign Surface not exceeding fifty (50) square feet per face if located ten (10) feet from the street line of a public street or private street curb line. For each additional two (2) foot setback from the street line of a public street or private street curb line, one (1) additional foot may be added to the height of the sign to a maximum of ten (10) feet. If not sitting within the landscaped setback, the sign base shall be located within a curbed landscaped area, extending a minimum of three (3) feet on all sides of the sign base.
- (8) Except in the case of a shopping center designated as one unified entity and consisting of one or several attached or free-standing buildings, one Indirectly or Semi-Illuminated Monument Sign shall be permitted in lieu of one (1) Wall Sign for each commercial building, which sign shall conform to the height, size and setback requirements applicable to monument signs in the office building, and planned office building districts.
- (9) Banners may be used as architectural or decorative accessories in shopping centers provided they are generally uniform throughout a group of shops, and in harmony with the architectural theme of the center. No Banner shall be installed unless its location and design have first been approved by the Planning Commission.
- (f) Planned general business and planned industrial park district.
 - (1) Each business establishment shall be permitted not more than three (3) Indirectly or Semi-Illuminated Wall, Marquee or Canopy Signs, not more than one (1) on each business façade. The Sign Surface of any such Sign shall not exceed seven percent (7%) of the total area of the facade upon which it is placed. Wall Signs shall not extend above the height of the Wall. Marquee and Canopy Signs shall not extend more than six (6) inches beyond the front of the Marquee or Canopy on which they are located, above the height of the Wall on which the Marquee or Canopy is mounted, and their lower edge shall be no closer than ten (10) feet to any sidewalk or fourteen (14) feet to any street or alley surface

where cars may pass below. The Sign Surface of any Wall bulletin shall not exceed ten (10) square feet. In addition, one (1) Non-Illuminated Wall Sign, with a Sign Surface not exceeding six (6) square feet, may be placed on each major entrance to a multi-tenant building.

- (2) In lieu of one (1) of the above Signs, one (1) Projecting Sign shall be permitted for each establishment provided that the Sign Surface of the Projecting Sign shall not exceed seven percent (7%) of the total area of the facade upon which it is attached, shall not extend more than three (3) feet from the face of the building or one-third (1/3) of the sidewalk width, whichever is less, above the roof level of the building where the Sign is located, and the Signs' lower edge shall be no closer than ten (10) feet to any sidewalk or fourteen (14) feet to any street or alley surface where cars may pass below.
- (f) Drive-through restaurants and car washes may have two (2) single-faced Signs located in conjunction with a drive-through lane. Each Sign shall not exceed eight (8) feet in height or thirty-two (32) square feet of Sign Surface per face.

16-912 ADDITIONAL REGULATIONS APPLICABLE TO ALL DISTRICTS.

- (a) For any Sign authorized in any zoning district, a noncommercial message may be substituted for any allowed commercial message or any other allowed noncommercial message, provided that the Sign is legal without consideration of message content. If the Sign is one for which no sign permit is required, the message substitution may be made without additional approval. The purpose of this provision is to prevent inadvertent favoring of commercial speech over noncommercial speech, or favoring of any particular noncommercial message over any other noncommercial message. This provision does not allow for the substitution of an offsite commercial message in place of an onsite commercial message.
- (b) All Signs shall be of sound structural quality, be maintained in good repair and have a clean and neat appearance. Land adjacent to these Signs shall be kept free from debris, weeds and trash.
- (c) No part of any Sign shall be located closer than ten (10) feet from a side or rear property line.
- (d) Any Backlighted Sign or backlighted canopy, Marquee or panel shall comply with all federal, state and local laws concerning the placement, dimensions, materials or other regulations controlling these Signs; provided, however, that the dimensions of a Backlighted Sign or backlighted canopy, Marquee or panel shall be measured by constructing a rectangle for the highest, lowest and widest points of the object, display or surface that displays a light source, except that the opaque surfaces immediately related to or a part of that same Sign or panel shall also be calculated in the dimensions of the sign. Provided further, in calculating the dimensions of a continuous panel which spans at least eighty percent (80%) of any one (1) facade or a single common structure with multi-

tenants, the continuous opaque areas between, over and below the lighted area for these independent operations shall not be calculated to determine the dimensions of the Signs, canopies, Marquees, or panels. Up to twenty-five percent (25%) of the surface of any face of any Marquee, facie, or Wall may be backlighted so long as it is ornamental or decorative in purpose. Similarly, canopies may be backlighted to the extent of twenty-five percent (25%) of the Wall area to which they are attached. The backlighted area shall be in addition to signage areas otherwise allowed.

- (e) The background panel of all Semi-Illuminated Signs shall be opaque, with only the lettering illuminated.

16-913

SERVICE STATIONS. Service stations shall be permitted the following Signs:

- (a) One non-illuminated, Indirectly Illuminated or Semi-Illuminated Monument Sign provided the Sign is not closer than fifty (50) feet to any boundary of a residential district. The Sign shall not exceed ten (10) feet in height nor seventy (70) square feet in Sign Surface per face. If not sitting within the landscaped setback, the sign base shall be located within a curbed landscaped area, extending a minimum of three (3) feet on all sides of the sign base.
- (b) Two (2) Monument or Wall Signs, Indirectly illuminated or Semi-Illuminated Signs, but shall not exceed fifteen (15) square feet in Sign Surface each.
- (c) Each fuel pump island may have a Sign on each end not exceeding four (4) square feet in Sign Surface each.
- (d) A maximum of two Indirectly or Semi-illuminated Signs not exceeding one (1) square foot in Sign Surface each.
- (e) A maximum of two additional non-illuminated Signs not to exceed six (6) square feet in Sign Surface and to be mounted not to exceed four (4) feet in height shall be allowed.

16-914

SIGNS PERMITTED IN CONJUNCTION WITH SPECIAL USE PERMITS.

- (a) In the case of uses authorized by a special use permit, all Signs in conjunction therewith shall be approved by the Planning Commission, except where private sign criteria, in accordance with Section [16-915](#), have been previously approved for development.
- (b) In reviewing and approving the Signs, the Planning Commission shall take into consideration:
 - (1) the use of the facility;
 - (2) the height of the building;
 - (3) the surrounding land uses and zoning districts;
 - (4) the relationship of the site to public streets and the type of public street; and
 - (5) the topography of the site.

Where appropriate, the sign regulations of the underlying zoning district or the most analogous zoning district shall be allowed.

16-915 PRIVATE SIGN CRITERIA. All hotels and motor hotels, and shopping centers business parks, office parks or industrial parks shall be required to prepare a set of sign criteria governing all exterior Signs in the development. The criteria shall be binding upon all subsequent purchasers or lessees within the development. The size, colors, materials, styles of lettering, appearance. of logos, types of illumination and location of Signs shall be set out in the criteria. In all respects, the criteria shall be consistent with the regulations set out in this Chapter and shall be for the purpose of assuring harmony and visual quality throughout the development. Final development plans (in the case of a planned zoning district) or building permits (in the case of a conventional zoning district) shall not be approved until the governing body has approved the sign criteria. No sign permit shall be issued for a Sign that does not conform to the criteria. For purposes of this section, the terms "shopping centers, business parks, office parks or industrial parks" shall mean a project of one or more buildings that has been planned as an integrated unit or cluster on property under unified control or ownership at the time that zoning was approved by the City. The sale, subdivision or other partition of the site after zoning approval does not exempt the project or portions thereof from complying with these regulations relative to the number of Signs, harmony and visual quality of Signs to be installed.

16-916 REMOVAL OF UNSAFE, UNLAWFUL OR ABANDONED SIGNS.

- (a) If the Building Inspector shall find that any Sign regulated herein is unsafe or insecure, or is a menace to the public, or, has been constructed or erected, or is being maintained in violation of this Article or Chapter IV, Article 9 of the Code, the Building Inspector shall give notice thereof to the permittee, or, if the Sign is one that does not require a permit, to the owner of the property on which the Sign is located. If the person so notified fails to alter or remove the Sign so as to comply with the standards herein set forth within forty-eight (48) hours after notice, the Sign may be removed or altered to comply with these provisions by the Building Inspector at the expense of the permittee or owner of the property upon which the Sign is located, and the permit shall be revoked. The Building Inspector shall refuse to issue a permit to any permittee or owner who refuses to pay costs so assessed. The Building Inspector may cause any Sign which is an immediate peril to persons or property to be removed summarily and without notice.
- (b) When the Building Inspector notifies a permittee or property owner that a Sign is not in compliance pursuant to subsection (a) hereof, the Building Inspector shall also inform such person of the right to file an appeal with the Board of Zoning Appeals contesting the Building Inspector's determination.
- (c) If the time period set forth in subsection (a) hereof has elapsed and the Sign has not been removed, the Building Inspector shall send written notification by certified mail, return receipt requested, to the record owner of the property on which the Sign is located indicating when the Sign shall be removed. If the Sign has not been removed within thirty (30) days

after receipt of the notice, the City may have the Sign removed and the cost assessed to the property owner.

- (d) Where a Sign has been removed by the City pursuant to subsection (c) hereof, the City Clerk shall mail a statement of the cost of removal of that Sign to the last known address of the record owner or persons in charge of the property. If the cost is not paid within ten (10) days from the mailing of the notice, the Governing Body shall proceed to pass an ordinance levying a special assessment for the cost against the lot or piece of land and the City Clerk shall certify the assessment to the County Clerk for collection of payment the same as other assessments and taxes are collected and paid to the City.
- (e) If a building, structure or premise is vacated for a six (6) month period of time, the owner of that property shall be responsible for removing any Signs located thereon with the exception of one Wall Sign in the case of property located in a commercial and industrial district, and with the exception of one Yard Sign in the case of property located in a residential district. In addition, the owner shall be responsible for restoring the facade of the building, structure or premise to its normal appearance.

16-917

PROHIBITION AND AMORTIZATION OF NONCONFORMING SIGNS.

- (a) All Nonconforming Signs that existed on May 25, 1994, shall be discontinued and removed within 5 1/2 years of the effective date hereof. No changes in the basic structure, source of illumination, location or appearance of a Sign, Sign Alteration, or Sign Refacing shall be made to any Sign. If the business to which the Sign is related should move to another site (which move, in the opinion of the Building Inspector, creates, in effect, an Outdoor Advertising Sign) then the Sign shall be removed or otherwise brought into full compliance with all applicable provisions of the Code.
- (b) Upon application to the City Clerk, the Governing Body may extend the time for discontinuance and/or removal of a Nonconforming Sign. No extension of time shall be granted for a period of time longer than that necessary to allow the owner of the Sign to recoup the owner's initial investment in the nonconforming sign. The application for extension shall be on a form provided by the City and shall be accompanied by:
 - (1) a copy of the original sign permit issued for the Nonconforming Sign or other evidence satisfactory to the City of the date upon which the Nonconforming Sign was initially installed;
 - (2) evidence that annual sign inspections in accordance with Chapter IV, Article 9 have taken place each year since the initial date of installation of the Nonconforming Sign;
 - (3) documentation evidencing the initial cost of purchase or construction and installation of the Sign;
 - (4) if the Nonconforming Sign is not on property owned by the Sign owner, the lease or other document establishing the Sign owner's right to place the sign at its present location and all amendments thereto; and

- (5) all documents evidencing the degree to which the value of the sign has been depreciated for income tax or other purposes.
- (c) In determining whether to grant the extension and the length of the extension, if one is to be granted, the governing body shall consider the following:
- (1) The nature of the Nonconforming Sign;
 - (2) The character of the Sign;
 - (3) The location of the Sign;
 - (4) That part of the owner's total business that will be impacted by the removal or replacement of the Nonconforming Sign;
 - (5) The Sign owner's original capital investment in the Nonconforming Sign;
 - (6) The investment realization from the Nonconforming Sign to date;
 - (7) Depreciation taken by the owner of the sign for income tax or other purposes;
 - (8) The life expectancy of the Nonconforming Sign;
 - (9) The existence or non-existence of lease obligations;
 - (10) The existence of a contingency clause in any lease permitting termination of the lease;
 - (11) The other economic uses of any leasehold interests in the land or structure upon which the Sign is located;
 - (12) The value of, or feasibility of, subleases and assignments of any lease.
 - (13) The extent to which the investment of the owner in the Nonconforming Sign has been recouped;
 - (14) The fact that similar Signs are prohibited in the same area;
 - (15) Other reasonable uses of the land;
 - (16) The salvage value of the Nonconforming Sign;
 - (17) The Sign owner's loss of sharing revenue, if any; and
 - (18) The ability of the Sign owner to transfer the Nonconforming Sign to another location where it could be placed and would be in compliance with this Article and all other provisions of the Code.

16-918 APPROVAL OF VARIANCES. Any variance from these regulations may be approved only by the Board of Zoning Appeals after an application for a permit has been denied for the proposed Sign by the Building Inspector as provided in these regulations.

16-919 SEVERABILITY. Severability is intended throughout and within the provisions of this Article. If any section, subsection, sentence, clause, phrase or portion of this Article is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Article.

**Roeland Park City Council
Administrative Committee
Minutes
December 21, 2009**

Present: Chair Toni Hull, Co-Chair Bill Art. Bob Meyers, Betsy Mellor, Adrienne Foster, Scott Gregory, Marek Gliniecki, Mark Kohles, Megan England, John Carter, Debra Mootz, and Rex Taylor

1) Call to Order. 5:50 PM

2) Old Business: Discussion of the 2010 City Administrator Goals. Each Ward Representative and the Mayor Submitted the following: *We discussed each of the submitted goals and it was determined that number of the goals presented is work that City Administrator does in the normal course of his job. This discussion revealed how difficult it is to create goals that are not in the normal course of his job. In some instances council members were not aware that he has been doing a lot of what was presented as goals.*

Mayor

1. Storm water projects - Have storm water projects progressed smoothly? Have his years of city employment enhanced the storm water experience for the city? Are there other parts of the city that flood but are not in a storm water district? Has the administrator provided elected officials with a map that shows the boundaries of the various storm water districts? In summary, the goal is to design such City map. *The City Administrator indicated that this map already exists.*
2. The annual street maintenance program involves numerous decisions. It could be said that the annual street program has the most discretionary dollars spent each year. At the council's discretion, street maintenance could be postponed for years without additional damage to the streets. If street maintenance contracts were let once every four years for one million dollars, would more bidders submit bids? Do the worst streets get repaired prior to other streets? Have you driven over the entire city streets? How long should a residential street last before needing mill and over lay? Roe blvd was recently repaired. How many years should it last? Parish Street was completely rebuilt from the ground up about 5 years ago. Why has it not lasted for 15 years as some other streets? Have council members been provided with street maps showing the annual repairs for the prior 10 years? In the last 10 years have some streets been ignored? What about the street in the industrial park? Is the administrator responsible for the street program? The goal is to answer the above questions and provide such a map and excel spreadsheet. *This information exists and has been updated by Public Works staff on a regular basis.*
3. Managerial reports - Has the city's CPA firm or the administrator developed and continued a group of managerial reports to aid the council in their oversight duties? Managerial reports are different from the basic financial statements, but are equally important for the internal control of a city with part-time elected officials. What are the reports and have they been continuously maintained from election to election? *The City Administrator indicated that these reports exist as he provides the monthly financials in terms of sales tax reports and the quarterly financial treasurer reports produced.*

Ward 1 *Their goals were brought to the meeting and discussed.*

Goal 1- To tally calls about the use of the new trash container that has been put into service as per the Solid Waste Contract beginning 1-1-2010.

Goal 2- To submit a minimum of 3 grants where city has funds for the required grant matching funds required by most grant proposals.

Ward 2

The goal I've been rolling around in my head has to do with code enforcement. We all believe that it's a problem and our worst score with the public. However, I have a difficult time trying to come up with something quantifiable. The best I can do is to suggest a reporting and tracking system that charges the codes officer with regular "rounds" and involves his/her superiors in the tracking, with exception reporting to the governing body so that we are apprised of what's going on in our wards. Finally, the flaw in what I suggest is that the codes person reports to Debbie. John still has ultimate responsibility, but there could be problems with lines of authority. *As is indicated by the Ward representatives this is difficult to quantify.*

Ward 3

- 1) Community Outreach Assessment:
 - a. Create a number of annual events, to host a number of public events throughout the year--perhaps for each season. *To quantify it is suggested to say four in place of "number"*
 - b. Create a facebook page, etc--Take examples from Mission and Fairway *In the process of being done.*
- 2) City Hall Technology Assessment --Create a technology needs inventory for the future city hall renovation. *In the process of being done.*
- 3) City Hall FFE Assessment--Create a furniture needs inventory for the future city hall renovation. *Done.*
- 4) Organize a Student Outreach Government Class Program--Organize a number Government classes or programs aimed at elementary/high school students. *This program is not permitted in the school. The thinking here is to create a "Student Government", that can be done at City Hall.*

FYI...Goals numbered "2" and "3" above may be combined into one goal...

Ward 4

- 1) To conduct 4 Ward meetings to explain the Code Enforcement Process. This would include sending out post cards to announce the meetings. *The C.A. indicated that he go attend Ward meetings when invited and provide and explanation of the Code Enforcement Process.*
- 2) Develop a City wide Home Tours Program. This can start with 2-3 homes and work up to a seasonal or annual tour – per section of the city or disburse over the city as a whole. *This is a program that had been done in the past as a way to increase pride in the look of the city's neighborhoods.*
- 3) Research and develop options for regular residence satisfaction feedback. Develop a program that over time can give and indication of resident's perception of the service provided to them by staff and council overall.
- 4) Identify 6 grants to submit on behalf of the city and report on this to the council. *The Admin Committee charged itself to identify 3 to 5 City Administrator goals that are measurable and have the resources available to him to complete the goals. This will be done at the next Admin meeting on January 25, 2010.*

6) Adjourn - 6:45 PM

**Johnson County Code of Regulations for Solid Waste Management
Frequently Asked Questions
January 14, 2010**

What are the key focus areas of the new Code?

All residents in the county will have access to the same residential waste removal services. On or before the implementation dates the following will be prescribed:

1. All residents will have unlimited curbside recycling included in their base rate of waste removal service.
2. Yard waste will not be allowed to be collected with waste or disposed of in a landfill.
3. All haulers will provide a volume based rate structure to their residential customers.
4. All residential haulers will have to be licensed by the Johnson County Environmental Department to operate in Johnson County.
5. Yard waste will be restricted from disposal in any solid waste disposal facility in Johnson County.

What dates will the Code go into effect?

The new Code will be effective upon approval by the Board of County Commissioners and subsequent publishing in the paper.

The proposed dates for compliance are as follows:

January 1, 2011 – Yard waste restriction from landfilling or being collected curbside for disposal in a landfill or transfer station.

January 1, 2011 – Unlimited recycling at curbside with mandatory pay in the base rate of the hauler's trash removal service.

January 1, 2011 – Licenses required for all waste haulers operating in the county and new permitting conditions for all solid waste processing facilities in the county.

January 1, 2012 – Volume based rate structure (PAYT) will be required by haulers operating in Johnson County.

What is a Volume Based Rate Structure?

Volume based rate structure is also referred to as Pay-As-You-Throw and means that customers pay for the amount of waste that they generate. There is a base service which includes a prescribed volume of the waste containers or bags for your regular collection cycle and unlimited recycling. Any waste generated beyond the base rate will cost the customer extra. This is a clear incentive for recycling.

Under the volume based rate structure system, will residents have to have a prescribed trash container? Some of the waste containers and carts are too bulky or big to fit in a small garage.

There is not a prescribed container type or stipulated size required by the Code. It is up to each hauler and/or city to determine the desired container size or number of bags as long as they clearly incentivize recycling and waste reduction.

What is the definition of yard waste?

Yard waste is defined as leaves, grass clippings, and tree and brush trimmings, but does not include agricultural waste or garden trimmings, hedge apples, sweet gum balls, Christmas wreaths, etc. A de minimis amount of yard waste is acceptable.

Leaves and grass placed at the curb for composting collection will need to be in a compostable bag or a rigid container approved by your city or hauler. Branch and limbs will need to be bundled or containerized in accordance with your city or hauler requirements.

What options do residents have to manage their yard waste?

Residents may subscribe to a curbside collection service of yard waste for composting or processing. They may choose to manage their yard waste on site by mulching their leaves and grass clippings back onto their lawn and/or managing a backyard compost pile. Also, residents may self-haul yard waste to an approved composting site or facility.

Do all residents have to participate in curbside recycling?

Recycling will be a required part of the basic waste removal service for all residents who are served by curbside pickup of waste. If you do not currently participate in curbside recycling, you will soon discover how much your trash quantity goes down as you move your recyclables from the trash into the recycle bin. Participation in the act of recycling is optional; you are not required to recycle.

What if I use the recycling drop off center? Do I still have to pay for recycling?

Yes. Recycling will be provided in the basic service for waste removal. Recycling centers generally accept a wider variety of recyclable materials than haulers do at curbside.

Will the cost for waste removal go up?

The cost of waste hauling service varies between haulers and locations. Those customers who do not currently subscribe to recycling collection may see an increase in their cost of service. If customers want to subscribe to a separate curbside collection of yard waste, these costs would be in addition to the basic charge that includes trash and recyclable pickup.

New annual licensing fees for haulers will be required. Increases in fees for the annual county solid waste processing facility permits will be required. The fees are listed in the Code in Article 5, Operating Licenses and Permits.

Will more trucks be going up and down the roads?

There will be a truck for trash, a truck for recycling, and possibly a third truck for yard waste collection. At this time, the Code specifies a minimum service of bi-weekly recyclables collection. Those communities in Johnson County which currently have all three services have not found the truck traffic increase to cause any new challenges to traffic flow.

How will the changes affect hauling companies, especially smaller ones?

The Environmental Department has met with all of the residential haulers in the county on multiple occasions to inform them of the upcoming changes and solicit feedback on feasibility. Smaller haulers are concerned that they will have to make initial investments to provide for services they are not currently providing like recycling and yard waste. However, haulers have indicated that it is feasible to provide recycling in their base rate of service once it is required. Haulers have the option to subcontract recycling services and are not required to pick up separated yard waste. We have worked with the haulers to provide adequate time for compliance with the new proposed regulations.

How will illegal dumping be addressed?

Illegal dumping will be handled with similar procedures as today. Each city in the county has codes and ordinances for illegal dumping which are enforced by city staff. The Environmental Department, county Public Works Department, and the Planning, Codes and Development will investigate and enforce appropriate county regulations on illegal dumping in the unincorporated areas. The Environmental Department will work with each city with reports of increases in dumping associated with the new restrictions in the Code.

In many cities where changes have already occurred to waste collection services, there have been few reports of an increase in illegal dumping. The cities and the county have increased storm water control and management personnel and policies which will help with possible increase in illegal dumping. However, it has been found that many communities adjust quickly to a new collection system which becomes the norm and illegal dumping decreases.

How will the Code be enforced?

Yard waste will be restricted from disposal at the gates of the landfill and transfer station. Facilities will be required to submit a Solid Waste Restrictions Operations Plan in order to be permitted which will outline their plans to ensure compliance.

**JOHNSON COUNTY CODE OF REGULATIONS for
SOLID WASTE MANAGEMENT**

Draft 2010 Edition



**Regulations governing solid waste management in
Johnson County, Kansas.**

**Johnson County Environmental Department
11811 S. Sunset Drive
Olathe, Kansas 66061
913-715-6900
Fax: 913-715-6970**

DRAFT

**JOHNSON COUNTY CODE OF REGULATIONS FOR
SOLID WASTE MANAGEMENT
2010 EDITION
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ARTICLE 1
GENERAL PROVISIONS

Section 1. Title.

These regulations may be referred to as the “*Johnson County Code of Regulations for Solid Waste Management, 2010 Edition*” (“Code”).

Section 2. Purpose.

A. The purpose of this Code is to:

- 1) protect the public health, safety, and welfare of the residents of Johnson County, Kansas (“County”) by establishing and maintaining a program for comprehensive solid waste management;
- 2) carry out the solid waste management planning requirements imposed upon the County by the state of Kansas, including implementation of the duly adopted *Johnson County Solid Waste Management Plan* (“SWMP”) which, among other things, contemplates the timely reduction of waste volumes, taking into consideration source reduction, reuse, recycling, composting, and land disposal;
- 3) comprehensively regulate solid waste from its generation or entry into the County through collection, storage, transportation, processing, treatment, and disposal; conform to the rules and regulations, standards and procedures adopted by the secretary of the Kansas Department of Health and Environment (“KDHE”) as authorized by state statutes, including K.S.A. § 65-3405 *et seq.*, and amendments thereto;
- 4) require licenses and permits for the collection and transportation of solid waste, and for the operation of solid waste processing facilities and solid waste disposal areas; provide for a monitoring and inspection program for all permitted solid waste processing facilities, solid waste disposal areas, and composting facilities in the County;
- 5) provide for investigation and resolution of improper disposal of solid waste in the unincorporated areas of the County; provide penalties for violations of the provisions of this Code; and
- 6) collect fees to support the costs of licensing, monitoring, and inspecting to determine compliance with the provisions of this Code.

Section 3. Authority.

This Code is adopted pursuant to statutory home rule authority, K.S.A. § 19-101, *et seq.*, as well as K.S.A. § 65-3401 *et seq.*, to develop and implement a comprehensive, county-wide, solid waste management plan and program.

Section 4. Applicability.

Unless otherwise exempted, this Code shall apply to all “solid waste” as defined herein located within the County, and to each separate process of solid waste management, including generation, storage, collection, transportation, processing, treatment, and disposal. Interpretation of this Code shall favor the comprehensive regulation of solid waste for the greatest possible protection of the environment and the public health, safety, and welfare.

Section 5. Severability.

If any clause, sentence, paragraph, section or subsection of this Code shall be adjudged invalid by a court of competent jurisdiction, then such judgment shall not affect, repeal, or invalidate the remainder thereof, but shall be confined to the clause, sentence, paragraph, section or subsection thereof so found invalid.

Section 6. Powers and Duties of the Director.

- A. The Environmental Department Director (“Director”) shall be responsible for the administration and enforcement of the provisions of this Code and shall have all the powers and duties necessary to fulfill that responsibility, including to:
- 1) issue, renew, suspend, deny, or revoke licenses and permits pursuant to this Code;
 - 2) establish and maintain a system of records and reports as necessary or desirable in the enforcement of this Code;
 - 3) inspect and monitor solid waste processing facilities, materials recovery facilities, and solid waste disposal areas and disposal facilities in the County;
 - 4) investigate open dumping sites in the unincorporated area of the County;
 - 5) enforce collection of any fees and charges established by authority of this Code;
 - 6) coordinate County efforts with efforts of local, state, and federal officials;
 - 7) monitor and support the functioning of the Solid Waste Management Committee (“SWMC”);

- 8) act as liaison between the SWMC and the Board of County Commissioners (“Board”);
- 9) review the SWMC’s recommended SWMP including any amendments thereto, and implement the SWMP upon its approval by the Board and KDHE; and
- 10) adopt rules, regulations, procedures, policies, and set fees and charges necessary, desirable or incidental to the implementation of this Code.

Section 7. Ownership of and Responsibility for Solid Waste.

- A. For purposes of this Code, title to the solid waste generated, collected, processed or disposed of in accordance with this Code shall be deemed to be vested in the person in actual possession of the solid waste at any particular time.
- B. If a resource recovery facility recovers energy from solid waste pursuant to the SWMP, the resource recovery facility shall have sole ownership, utilization, and responsibility for all waste collected by that facility and shall have the power to sell recovered or recycled materials or energy.
- C. If the Director finds that the generation, accumulation, management or discharge of solid waste by any person is, or threatens to cause pollution of the land, air, or waters of the County, or is a hazard to property in the surrounding area or to public health safety, welfare or the environment, the Director may order the person to alter the generation, accumulation or management of the solid waste or to provide and implement such solid waste management system as will prevent or remove pollution or hazards.

Section 8. Authorized Representatives.

The Director may designate individuals to administer the provisions of this Code who shall be “Authorized Representatives” of the Board and the Environmental Department for purposes of Code enforcement.

Section 9. Access and Inspection.

The Director and Authorized Representatives shall have the authority to enter upon any property for the purpose of performing inspections and other necessary duties to ensure compliance and enforcement with this Code and shall have the authority to seek a lawful order to compel access whenever access is denied. The Director and Authorized Representatives may issue necessary compliance orders and citations for violations of this Code.

Section 10. Exemptions.

A. The following activities or types of otherwise regulated waste are exempt from the regulation of this Code:

- 1) discharges of wastewater into a wastewater treatment facility which is operating under license or permit issued by state or federal regulators, or the Environmental Department;
- 2) radioactive wastes owned by the United States government or disposed of or stored by or under permit from the state of Kansas or the United States government;
- 3) "waste" defined as hazardous under applicable state law or regulation;
- 4) wastewater lawfully disposed of under a license issued by the Environmental Department ;
- 5) a "Kansas Class I injection well" as defined by KDHE regulations; and
- 6) solid waste which originates outside the County while being transported through the County by rail, truck, or other common-carrier, if such waste is to be disposed of outside the County.

Section 11. Disclaimer of Liability.

A. This Code shall not be construed or interpreted as imposing upon the Board, its officials or employees;

- 1) any liability or responsibility for damages to any property; or
- 2) any warranty that any system, installation or portion thereof that is constructed or repaired under permits or licenses issued by the Department, will function properly. In addition, any employee charged with enforcement of this Code, acting in good faith and without malice in the discharge of such employee's duties, shall not thereby be personally liable and is hereby relieved from personal liability for

damage that may occur to any person or property as a result of any act required by this Code.

Section 12. Administration.

The provisions of this Code shall be administered and enforced by the Environmental Department.

Section 13. Effective Date.

This Code shall become effective from the date of adoption by the Board and publication of the adopting Resolution.

ARTICLE 2
DEFINITIONS

Section 1. Definitions.

- A. When used in this Code, unless the context specifically indicates otherwise or a word or phrase is defined in the body of the Code, these words and phrases shall have the following meanings:
- (1) "Agricultural waste" means solid waste resulting from the production of farm or agricultural products.
 - (2) "Authorized Representative" means a person who is designated by the Environmental Department Director to administer the provisions of this Code. An Authorized Representative is also a "Code Enforcement Officer" under Resolution 116-88.
 - (3) "Backyard composting" means a composting operation that does not distribute the finished compost for use off-site and that meets one of the following conditions:
 - a. the materials are all compostable and are generated by no more than four single-family residences, or the equivalent of four single-family residences.
 - b. the material being composted consists entirely of yard waste, and the volume of material being composted is less than 10 cubic yards.
 - (4) "Board" means the Board of County Commissioners of Johnson County, Kansas.
 - (5) "Bulky waste" means items of refuse too large to be placed in refuse storage containers, including, but not limited to, appliances, furniture, tires, large automobile parts, trees, limbs and stumps.
 - (6) "Clean rubble" means the following types of construction and demolition waste: concrete and concrete products including reinforcing steel, asphalt pavement, brick, rock, and uncontaminated soil as defined by this Code.
 - (7) "Closure" means the permanent cessation of active disposal operations, abandonment of the disposal area, revocation of the permit for filling with waste all areas and volume specified in the permit and preparing the area for the long-term care under KDHE regulations.
 - (8) "Commercial facility" means all establishments engaged in business operations, including, but not limited to, stores, markets, office buildings, restaurants, shopping centers, theaters, and waste hauling.

- (9) "Composting" means a controlled process of microbial degradation of organic material into a stable, nuisance-free, humus-like product. This term shall not include manure storage piles, whether turned to stabilize or not turned and yard waste directly applied to agricultural land.
- (10) "Composting area" means the area used for receiving, processing, curing, and storing compostable materials and compost.
- (11) "Composting facility" means any facility that composts wastes and has a composting area larger than one-half acre.
- (12) "Composting site" means any facility that composts wastes and has a composting area one-half acre or less (excludes backyard composting sites).
- (13) "Construction and demolition landfill" means a permitted solid waste disposal area used exclusively for the disposal on land of construction and demolition waste. This term shall not include a site that is used exclusively for the disposal of clean rubble.
- (14) "Construction and demolition waste" means solid waste resulting from the construction, remodeling, repair and demolition of structures, roads, sidewalks and utilities; untreated wood and untreated sawdust from any source; treated wood from construction or demolition projects; small amounts of municipal solid waste generated by the consumption of food and drinks at construction or demolition sites, including, but not limited to, cups, bags and bottles; furniture and appliances from which ozone depleting chlorofluorocarbons have been removed in accordance with the provisions of the federal clean air act; solid waste consisting of motor vehicle window glass; and solid waste consisting of vegetation from land clearing and grubbing, utility maintenance, and seasonal or storm-related cleanup. Such wastes include, but are not limited to, bricks, concrete and other masonry materials, roofing materials, soil, rock, wood, wood products, wall or floor coverings, plaster, drywall, plumbing fixtures, electrical wiring, electrical components containing no hazardous materials, non-asbestos insulation and construction related packaging. "Construction and demolition waste" shall not include waste material containing friable asbestos, garbage, furniture and appliances from which ozone depleting chlorofluorocarbons have not been removed in accordance with the provisions of the federal clean air act, electrical equipment containing hazardous materials, tires, drums and containers even though such wastes resulted from construction and demolition activities. Clean

rubble that is mixed with other construction and demolition waste during demolition or transportation shall be considered to be construction and demolition waste.

- (15) “Construction related packaging” means incidental quantities of packaging wastes that are generated in the construction, remodeling or repair of structures and related appurtenances. “Construction related packaging” does not include packaging wastes that are generated at retail establishments selling construction materials, chemical containers generated from any source or packaging wastes generated during maintenance of existing structures.
- (16) “County” means the geographical area of Johnson County, Kansas and all incorporated and unincorporated areas therein.
- (17) “Director” means the director of the Environmental Department of Johnson County, Kansas or such persons designated to act on the director’s behalf, including Authorized Representatives and Code Enforcement Officers.
- (18) “Disease vector” means rodents, flies, mosquitoes, or other pests capable of transmitting disease to humans.
- (19) “Disposal” means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water so that such solid waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any water including groundwater.
- (20) “Environmental Department” means the Johnson County Environmental Department.
- (21) “Facility” means a site and all equipment and fixtures on a site used to process or dispose of solid waste. A facility consists of the entire solid waste processing or disposal operation. All structures used in connection with the waste processing or disposal operation, including any structures used to facilitate the processing or disposal, shall be considered a part of the facility, including the following:
 - a. solid waste disposal units;
 - b. buildings;
 - c. treatment systems;
 - d. process and storage operations; and
 - e. monitoring stations.

- (22) "Garbage" means the animal and vegetable solid waste resulting from the handling, processing, storage, packaging, preparation, sale, cooking or serving of meat, produce, or other foods and shall include unclean containers.
- (23) "Generation" means the act or process of producing solid waste.
- (24) "Generator" means any person who produces or brings into existence solid waste.
- (25) "Hauler" means the person who performs the act of collecting, removing, and transporting solid waste from the generation, storage or collection point.
- (26) "Hazardous waste" means material determined to be hazardous waste as specified by KDHE regulations.
- (27) "Hazardous waste facility" means a facility or part of a facility at which hazardous waste is treated, stored or is disposed and includes a hazardous waste injection well, and will remain after closure.
- (28) "Improper disposal" means the disposal of solid waste at any location in the County not permitted to receive such waste, or solid waste disposal area or facility which is not permitted under the authority of this Code, and amendments thereto, or the disposal of solid waste contrary to any rules and regulations adopted by KDHE or the Environmental Department .
- (29) "Incinerator" means any device or structure used for the destruction or volume reduction of solid waste by combustion pursuant to disposal or salvaging operations.
- (30) "Industrial waste" means all solid waste resulting from manufacturing, commercial, and industrial processes which is not suitable for discharge to a sanitary sewer or treatment in a community wastewater treatment plant or is not beneficially used in a manner that meets the definition of recyclables. Industrial waste includes, but is not limited to, mining wastes from extraction, beneficiation, and processing of ores and minerals unless those minerals are returned to the mine site; fly ash, bottom ash, slag and flue gas emission wastes generated primarily from the combustion of coal or other fossil fuels; cement kiln dust; waste oil and sludges; waste oil filters; and fluorescent lamps.
- (31) "K.S.A." means Kansas Statutes Annotated.
- (32) "License" means written authorization issued by the Environmental Department that by its conditions authorizes the licensee or applicant to undertake and perform

designated solid waste collection, hauling, processing or disposal services in the County.

- (33) "Medical services waste" means those solid waste materials which are potentially capable of causing disease or injury and which are generated in connection with human or animal care through inpatient and outpatient services. Medical services waste shall not include any solid waste which has been classified by KDHE as a hazardous waste or radioactive treatment material.
- (34) "Monitoring" means all procedures used to (1) systematically inspect and collect data on the operational parameters of the disposal facility, an area or a transporter, or (2) to systematically collect and analyze data on the quality of air, groundwater, surface water or soils on or in the vicinity of a solid waste disposal facility or area.
- (35) "Municipal solid waste landfill" or "MSWLF" means a solid waste disposal area where residential property waste is placed for disposal. A municipal solid waste landfill may also receive other nonhazardous wastes, including commercial solid waste, sludge, special waste, and industrial solid waste.
- (36) "Nuisance" means a situation that is injurious to health or offensive to the senses or that obstructs the free use of property in a manner that interferes with the comfortable enjoyment of life or property or a situation that adversely affects the entire community or neighborhood, or any substantial number of persons, even though the extent of the annoyance or damage inflicted on individuals is unequal.
- (37) "On-site" means on the premises where solid waste generation occurs, including two or more pieces of property that are divided only by public or private rights-of-way and that are otherwise contiguous.
- (38) "Operator" means the person with whom rests the ultimate decision-making authority over the storage facility, the disposal facility, the processing facility, the resource recovery facility, hauler, collector or the transporter.
- (39) "Owner" means any person in whom is vested the title of real or personal property.
- (40) "Permit" means written authorization issued by the Environmental Department that, by its conditions, may authorize the permittee or applicant to construct, install, modify or operate a specified solid waste disposal area or solid waste processing facility or perform the act of removing solid waste from the generation, storage or collection point for proper disposal.

- (41) "Person" means an individual, partnership, co-partnership, firm, company, public or private corporation, association, joint stock company, trust, estate, political subdivision or any agency, board, environmental department or bureau of the state or federal government or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.
- (42) "Post-closure" means that period of time subsequent to closure of a solid waste disposal area when actions at the site must be performed.
- (43) "Processing" means incinerating, compacting, bailing, shredding, salvaging, and other processes whereby solid waste characteristics are modified or solid waste quantity is reduced.
- (44) "Reclamation facility" means any location at which material containing a component defined as hazardous or industrial waste under KDHE regulations is processed.
- (45) "Recyclables" means any materials that will be used or reused, or prepared for use or reuse, as an ingredient in an industrial process to make a product, or as an effective substitute for a commercial product. Recyclables includes, but is not limited to, paper, glass, plastic, and metal, but does not include yard waste.
- (46) "Refuse" means unwanted or discarded material resulting from residential, commercial, industrial, and agricultural operations and from normal community activities. Refuse includes in part the following: garbage, rubbish, ashes, and other residue after burning, street refuse, dead animals, animal waste, junked or abandoned motor vehicles, agricultural, commercial, and industrial wastes, construction and demolition wastes, and wastewater treatment residue.
- (47) "Residential waste" means all solid waste emanating from residential property, but not including wastes suitable for discharge to a sanitary sewer or community wastewater treatment plant.
- (48) "Resource recovery" means the recycling or reclamation of energy or materials from waste, its reuse or its transformation into new products which are not wastes.
- (49) "Residential property" means single-family, two-family, three-family, and four-family residential real estate.
- (50) "Salvaging" means the controlled removal of reusable materials from solid waste.
- (51) "Scrap material recycling and processing facility" means a fixed location that utilizes machinery and equipment for processing only recyclables.

- (52) “Solid waste” means discarded materials including, but not limited to, solid and semi-solid materials, sludges, and liquid and contained gaseous waste materials resulting from industrial, commercial, agricultural, and residential activities. Such term shall not include hazardous wastes, recyclables, but shall include garbage and refuse.
- (53) “Solid waste disposal area” means any area used for the disposal of solid waste from more than one residential property, or one or more commercial, industrial, manufacturing or municipal operations. Solid waste disposal area includes all property described or included within any solid waste permit issued by KDHE or the Environmental Department.
- (54) “Solid waste management system” means the entire process of generating, storage, collection, transportation, processing, and disposal of solid wastes by any person engaging in such process as a business, or by any state agency, city, authority, county or any combination thereof.
- (55) “Solid Waste Management Plan (SWMP)” means the then-current SWMP prepared and approved by the SWMC, adopted by the Board and subsequently approved by KDHE, which evaluates the existing solid waste management system and identifies strategies and recommendations for improving and updating the County solid waste management system based on projections of 20 years; provides guidance and direction for the management, handling, reduction of solid waste through reuse, recycling, composting, and the disposal of solid waste in the County; and satisfies the state requirement under K.S.A. § 65-3405 *et seq.* and any amendments thereto.
- (56) “Solid waste processing facility” means incinerator, composting facility, household hazardous waste facility, waste-to-energy facility, transfer station, reclamation facility or any other location where solid wastes are consolidated, temporarily stored, salvaged or otherwise processed prior to being transported to a final disposal site. This term does not include a scrap material recycling and processing facility.
- (57) “Solid Waste Restriction Operations Plan (SWROP)” means a written plan to provide for the proper handling of yard waste or other restricted materials.

- (58) “Special waste” means any solid waste that because of physical, chemical or biological characteristics requires special management standards due to concerns for owner or operator safety regarding handling, management or disposal.
- (59) “Special waste disposal authorization” or “SWD” means the written authorization by the Environmental Department for disposal of special waste at a municipal solid waste landfill located in Johnson County, Kansas.
- (60) “Storage” means the containment of solid wastes in a manner that shall not constitute disposal or processing, under one of the following conditions:
- a. pre-collection: storage by the generator, on or adjacent to the premises, before initial collection. Under these regulations, pre-collection storage shall not require a processing facility permit; or
 - b. post-collection: storage by the processor or collector, while the waste is awaiting processing or transfer to a disposal or recovery facility.
- (61) “Transfer station” means any facility where solid wastes are transferred from one vehicle to another or where solid wastes are stored and consolidated before being transported elsewhere, but shall not include a collection box that is not equipped with compaction mechanisms or has a volume smaller than 20 cubic yards.
- (62) “Treatment” means the processing of waste to remove or reduce its harmful properties or to contribute to more efficient or less costly management or to enhance its potential for resource recovery including, but not limited to, existing or future procedures for biodegradation, concentration, detoxification, fixation, incineration or neutralization.
- (63) “Unit” and “disposal unit” means a discrete area at a permitted landfill that is used for the final disposal of solid waste. These terms shall include the following means of disposal: trench, area fill, and cut and cover.
- (64) “Volume based rate structure” and “unit based pricing” means a system by which the charge for solid waste disposal is variable based upon the volume or units of waste collected at a residential property on a regular collection cycle, excluding:
- a. recyclable materials separated by the customer for recovery materials collection;
 - b. yard waste; and
 - c. bulky waste.

- (65) "Waste" means any material for which no use or sale is intended and which will be discarded or any material which has been or is being discarded.
- (66) "Waste-to-energy facility" means a facility that processes solid waste to produce energy or fuel.
- (67) "Wastewater" shall mean the liquid and water-carried industrial or domestic wastes from dwellings, commercial establishments, industrial facilities, institutions, and portable toilets whether treated or untreated.
- (68) "Yard waste" means leaves, grass clippings, and tree and brush trimmings, but does not include agricultural waste.

Section 2. Interpretation.

Words or phrases not specifically defined in this Code, but defined by KDHE regulations shall have the same meaning as set forth in KDHE solid waste regulations. If an ambiguity or conflict exists between this Code and KDHE regulations, and if such ambiguity or conflict cannot be resolved using recognized rules of interpretation, this Code shall control. Words or phrases not defined herein or in KDHE regulations shall have the common meaning attributed them as provided in *Merriam Webster's Collegiate Dictionary*, Eleventh.

ARTICLE 3
SOLID WASTE MANAGEMENT COMMITTEE

Section 1. Duties of the Solid Waste Management Committee.

Pursuant to state statute, the Board established, by Resolution 027-93, a Solid Waste Management Committee ("SWMC") to provide the Board with advice and counsel in regulating and managing solid waste and to develop a Solid Waste Management Plan ("SWMP") for the County. The Board, upon the recommendation of the SWMC, adopted a SWMP by Resolution 090-07, which has been subsequently amended from time to time, which provides, *inter alia*, recommendations for the regulation and management of solid waste within the County, including provisions to reduce residential waste, encourage reuse and recycling, implement hauler regulations, restrict yard waste from landfill disposal, and establish a volume based rate structure.

ARTICLE 4
IMPLEMENTATION OF SOLID WASTE MANAGEMENT PLAN

Section 1. Solid Waste Reduction Requirements.

- A. General and Specific Restrictions. The SWMP recommends the restriction or prohibition of the disposal or transfer for disposal of certain materials including yard waste and the SWMP may, from time to time, be amended to recommend restriction of other materials. With respect to all such materials, the Environmental Department, as the administering agency, may:
- 1) require as a condition of the issuance of a solid waste permit that a facility or class of facilities, prohibit or limit the disposal, or transfer for disposal, of particular types of materials;
 - 2) require as a condition of continued operation under an existing permit that a facility or a class of facilities, prohibit or limit the disposal, or transfer for disposal, of particular types of materials;
 - 3) determine that a specific facility or class of facilities, are not approved for the disposal of particular types of material and may not receive for disposal particular types of materials; or
 - 4) impose conditions upon the issuance of an operating license for haulers of solid waste to require, prohibit or limit the collection or transportation of particular types of materials.

Section 2. Solid Waste Restrictions.

- A. Solid Waste Restrictions. The Director may, by written order, impose restrictions upon the collection, hauling, disposal, and transfer for disposal, of any material required or recommended by the SWMC to be restricted as set forth in the SWMP. Upon the publication of such written order, once in the official county newspaper, no person shall thereafter collect, haul, dispose, transfer for disposal, or contract for disposal, of any restricted material except in accordance with this Code and the Director's order. No hauler, landfill, transfer facility or other solid waste facility operator shall recycle, compost or process the restricted material except in accordance with a solid waste restriction operation plan submitted to and approved by the Environmental Department.

- B. Yard Waste Restriction. From and after January 1, 2011, no yard waste shall be disposed of in a solid waste disposal facility working face or a solid waste transfer station. It shall be a violation of this Code for any person to place yard waste at curbside for pickup by a hauler unless such yard waste is segregated from solid waste, placed in a container suitable for composting, or appropriately bundled and tied.
- C. Hauling Restriction. From and after January 1, 2011, haulers required to be licensed under this Code, shall not collect yard waste unless segregated from solid waste, placed in a container suitable for composting, or appropriately bundled and tied, to be delivered to a facility or property authorized or approved by the Environmental Department to accept yard waste for composting, mulching or other approved processing method.

Section 3. Solid Waste Restriction Operations Plan for Permitted Municipal Solid Waste Landfills and Transfer Stations.

- A. Every permit holder or operator of a municipal solid waste landfill and transfer station shall submit to the Environmental Department a written solid waste restriction operations plan ("SWROP") to provide for the proper handling of yard waste and any other restricted material, which shall demonstrate compliance measures to be implemented in accordance with this Code. A SWROP shall be submitted to the Environmental Department for approval with an initial permit application and thereafter upon annual permit renewal or if any changes to other restricted material that are proposed to the SWROP.
- B. The SWROP shall include the following:
 - 1. ongoing restricted waste monitoring and record keeping of incoming loads including:
 - i) monitoring procedures;
 - ii) number of loads inspected weekly;
 - iii) unacceptable quantities and *de minimis* acceptable quantities;
 - iv) signed inspection checklists;
 - v) detailed list of unauthorized wastes; and
 - vi) hauler information
 - 2. the facility's proposed response to unacceptable loads including:
 - i) communication between hauler and facility operator;

- ii) notification of the Environmental Department; and
 - iii) load disposition.
- 3. other plan elements including:
 - i) training;
 - ii) signage;
 - iii) an annual solid waste restriction report submitted to the Environmental Department; and
 - iv) retention of records for at least five years.
- C. In determining the adequacy of a SWROP, the Environmental Department may consider the following criteria, among others:
 - 1) the anticipated quantities and sources of restricted materials;
 - 2) the contractual terms which affect the delivery of said materials;
 - 3) the expected maximum and minimum percentages of diversion of said materials prior to delivery to the facility and capture of said materials at the facility;
 - 4) the design, operational, educational, informational, financial and marketing mechanisms to be employed to achieve compliance with the restriction; and
 - 5) the record keeping systems by which the Environmental Department can verify compliance with the restriction.
- D. Facilities shall submit such plans within 120 days following the effective date of the restriction. The 120 day requirement shall not limit the Environmental Department from requiring submission of a plan as part of an application for a new or existing facility permit or modification of a permit or plan approval.

Section 4. Solid Waste Restriction Operations Plan for Licensed Haulers.

- A. Every licensed hauler shall submit to the Environmental Department a written solid waste restriction operations plan (“SWROP”) to provide for the proper handling of yard waste and any other restricted material, which shall demonstrate compliance measures to be implemented in accordance with this Code. A SWROP shall be submitted to the Environmental Department for approval with an initial permit application and thereafter upon annual permit renewal or if any changes to other restricted material that are proposed to the SWROP.
- B. The SWROP shall include the following:
 - 1. procedures for limiting pickup of restricted materials from customers:

- i) employee training;
 - ii) notification of customers about proper way to manage restricted materials;
 - iii) the hauler's proposed response to improperly managed restricted materials by a customer.
- C. Haulers shall submit such plans within 120 days following the effective date of the restriction. The 120 day requirement shall not limit the Environmental Department from requiring submission of a plan as part of an application for a new or existing hauler's license.

Section 5. Implementation of Solid Waste Reduction Requirements.

- A. In accordance with the SWMP's goal to reduce the amount of waste that is generated for disposal by encouraging recycling, the following regulations are hereby adopted:
 - 1. Unlimited Recycling. Not later than January 2011, haulers required to be licensed under this Code, shall allow as part of the hauler's basic services, for residential property, a program of unlimited curbside recycling. No hauler shall fail to make available recycling services as part of its basic residential property service.
 - 2. Haulers shall only unload collected recyclable materials at a recycling or processing facility authorized or approved by the Environmental Department, except for recyclable materials which customers have not properly prepared for recycling.
 - 3. Haulers are required to accept common recyclables for which a readily identifiable market exists such as food-grade plastics, cardboard, office paper, newspaper, chip board, phone books, junk mail, magazines, and aluminum and steel cans. The Environmental Department may determine, by written order, that certain materials shall be included or may be excluded in the items included for recycling.
 - 4. Recyclables placed at residential curbside shall be deemed the property of the hauler contracted to remove such recyclables and it shall be a violation of this Code for any person other than the hauler to remove such recyclables.
 - 5. Volume Based Rate Structure. The Director shall have the authority to adopt and implement rules, guidelines, and regulations relating to volume based rate structure. Not later than January 1, 2012, every hauler required to be licensed under this Code shall adopt a rate structure which is based upon the total volume of the containers or bags of solid waste collected, on a weekly basis, which rate structure shall exclude recyclable materials separated by the customer for recyclable

materials collection, yard waste separated for composting or processing, and bulky waste.

- i) The volume based rate structure shall apply to all residential property. Each hauler shall establish a base charge for weekly collection service which shall establish a maximum volume to be included in the base charge with an additional charge for any increased container size or increase in the volume of solid waste. The additional charges above the established base rate shall be sufficient to establish a clear financial incentive for customers to reduce solid waste disposal in area landfills.
- ii) The volume based rate structure for weekly collection shall be based upon the total volume of the containers or bags, and not on the actual volume of trash. For purposes of this Code, the manufacturer's stated volume for a container, whether paper, plastic or metal, shall be deemed accurate.
- iii) Additional container and bag charges associated with a hauler's volume based rate structure shall be administered through a readily identifiable system, such as attachable tags, marked containers or designated bags which shall be made available for sale to the customer.
- iv) The charges for services, including base charges and charges for additional containers, tags or bags, may vary depending on individual contract negotiations.
- v) The Director shall review a hauler's proposed volume based rate structure at the time of license application or annual license renewal to ensure that the proposed rates meets the intent and requirements of this Code.
- vi) At the hauler's option, an alternate rate structure based on weight, rather than volume, may be proposed and shall be approved if it satisfies the goals of waste reduction and encourages recycling.
- vii) The Director may issue an order which temporarily waves any limitation on residential property waste collection, fee or charge, as appropriate to accommodate special circumstances or events, or the accumulation of exceptional volumes of residential property waste.

ARTICLE 5
OPERATING LICENSES AND PERMITS

Section 1. Licenses and Permits Required.

- A. Haulers: Every person who owns or operates any commercial transportation business that collects, hauls or transports any residential property solid waste within the County shall obtain a license from the Environmental Department.
- B. Owners or Operators of Storage, Processing, Treatment, Transfer Stations, Composting Facilities, or Disposal Facilities: Every person who owns or operates any commercial facility within the County for the storage, transfer, processing, treatment or disposal of any solid waste or composting material shall obtain a permit for such facility from the Environmental Department. Notwithstanding the foregoing, compost sites of ½ acre or less shall not be required to obtain a permit but shall register with the Environmental Department and pay a one-time fee as set forth in this Code.

Section 2. License and Permit Procedure.

- A. Every person required to obtain a permit or license shall make application for such permit or license on forms provided by the Environmental Department which forms shall include:
1. the nature of the permit or license desired;
 2. the characteristics of solid waste to be collected, transported, processed or disposed;
 3. the number of solid waste transportation vehicles to be operated;
 4. the location or locations of solid waste processing or disposal facilities to be operated or used; and
 5. any other such reasonable information required by the Director.
- B. If the Director determines that the hauler, solid waste processor, or disposal facility operator conforms to the provisions of this Code, the Director shall approve the application and shall issue a license or permit for each hauling operation, solid waste processing, or disposal facility set forth in the application. If the application fails to meet

the requirements of this Code, the Director shall inform the applicant of the deficiencies and allow a resubmission.

- C. If a permit applicant is required to file an application with the KDHE for a solid waste processing or disposal facility permit, the applicant shall provide the Director with a copy of the KDHE application, including all drawings, designs, maps, financial documents and requirements, and other documentation.

Section 3. Denial of Permit or License.

- A. The Director may deny, revoke, suspend or refuse the issuance of any permit or license upon a finding that:
 - 1. the applicant has failed to comply with the provisions of this Code.
 - 2. all applicable state or federal laws or regulations regulating solid wastes or the activities, facilities or processes undertaken by the applicant pose a threat to the public health, safety, welfare or the environment;
 - 3. the application is inconsistent with the County's SWMP including any guidelines developed by the SWMC;
 - 4. a condition exists that jeopardizes the operation of the facility for the proposed term of the permit; or
 - 5. the applicant or any principal, shareholder or other person exercising partial or total control over the applicant, has violated the provisions of this Code or KDHE solid waste regulations.
- B. Except as otherwise provided by this Code, the Director may require a permit or license application to be submitted for a hauler, solid waste processor or disposal facility if there is any change, either directly or indirectly, in ownership or control of the operation.
- C. If a permit or license is denied, suspended or revoked, the applicant or permittee or licensee may request a hearing before the Director in accordance with this Code.
- D. The Director may authorize the following activities to occur without a permit issued pursuant to this Code:
 - 1. disposal of solid waste from a site where the waste was improperly or illegally dumped so long as such disposal is an integral part of a site cleanup and closure plan submitted to the Environmental Department. No additional solid waste shall be

- brought to the site following the Environmental Department's approval of the site cleanup and closure plan;
2. disposal of hydrocarbon contaminated soil caused by a transportation accident on public rights-of-way if such waste is disposed of on property adjacent to or near the accident site with the approval of the Environmental Department, KDHE, and the Kansas Department of Transportation;
 3. disposal of whole, unprocessed, livestock carcasses on property at, adjacent, or near, where the animals died if such animals died as a result of a natural disaster or their presence creates an emergency situation and proper procedures are followed to minimize threats to human health and the environment. No such disposal shall occur without the written approval of the landowner as well as the local governmental authority having jurisdiction over the disposal site; and
 4. temporary storage or permanent disposal of solid waste resulting from natural disasters, such as storms, tornadoes, floods, and fires or other such emergencies, when a request for disposal is made by the local governmental authority having jurisdiction over the area and the failure to act quickly could jeopardize human health or the environment. Prior to the Environmental Department's authorization, written approval for the storage or disposal must be obtained from the landowner and the local governmental authority having jurisdiction over the disposal site. The local governmental authority must agree to provide proper closure and post-closure maintenance of the disposal site as a condition of authorization; and
 5. The Director shall consider the following factors in determining whether to grant an exemption from the permitting requirements of this Code:
 - i) potential impacts to human health and the environment;
 - ii) urgency to perform necessary work compared to typical permitting timeframes;
 - iii) costs and impacts of alternative solid waste handling methods;
 - iv) local land use restrictions;
 - v) financial resources of responsible parties;
 - vi) technical feasibility of proposed project;
 - vii) technical capabilities of persons performing proposed work; and
 - viii) eligibility of site to soil conservation grants or KDHE solid waste grants.

Section 4. Fees.

- A. Every person seeking a license or permit from the Environmental Department shall pay the appropriate fee established under this section at the time of submittal of the original application and upon each renewal application.
- B. Fee schedule.
 - 1. The fee for the initial application and each annual renewal application for licenses and permits issued pursuant to this Code shall be:
 - i) solid waste incinerator: \$3,000.00
 - ii) industrial solid waste disposal facility: \$1,000.00
 - iii) municipal solid waste landfill: \$26,000.00 (includes monitoring, special waste authorizations, and sampling by the Environmental Department)
 - iv) solid waste processing facility: \$1,000.00
 - v) reclamation facility: \$250.00
 - vi) composting facility (½ acre or larger): \$250.00
 - vii) composting site (less than ½ acre): \$100.00 one-time registration fee
 - viii) transfer station (more than 20,000 tons per year): \$1000.00
 - ix) transfer station (20,000 tons or less per year): \$250.00
 - x) construction and demolition landfill: \$500.00
 - xi) solid waste haulers:
 - (a) 50 or less residential property solid waste collection vehicles: \$250.00
 - (b) Over 50 residential property solid waste collection vehicles: \$500.00
- C. If an existing permit is required to be modified there shall be a one-time fee equal to one-half of the original fee amount.
- D. Each holder of a license or permit issued by the Environmental Department shall renew such license or permit annually and pay the appropriate annual permit fee. Composting sites of less than ½ acre shall be exempt from paying annual renewal fees.
- E. There shall be no proration of annual fees, except that if the applicant's initial license or permit is issued on or after the first day of July, the fee shall be reduced by fifty percent for that calendar year. All license and permits shall expire on December 31 except the Director may determine that a license or permit, or any class of license or permit, shall expire one year from the date of issuance in which case the annual fee shall be due on each anniversary date and there shall be no proration.

F. The Environmental Department may, from time to time, increase the fees under this section by an amount not to exceed ten percent per year without additional authorization of the Board. Any such increase shall be reasonably related to off-setting inflation, an increase in services, or increased costs.

ARTICLE 6
STANDARDS FOR MANAGEMENT OF SOLID WASTE

Section 1. Storage and Disposal Requirements for Solid Waste Generators.

- A. The owner and the occupant of real property shall be jointly and severally responsible for:
 - 1. the handling of all solid waste generated or accumulated on the property; and
 - 2. contracting with a licensed hauler to collect and dispose of all waste generated on the real property unless collection and disposal are provided through a homes association, business association or municipal government.
- B. Any solid waste, other than bulky waste or agricultural solid waste, shall be properly stored and shall not:
 - 1. be kept in containers or bags other than those designed for that purpose and acceptable to the hauler;
 - 2. be allowed to attract, provide shelter, or create a breeding place for rats, flies, mosquitoes or other vectors;
 - 3. create a fire, health or safety hazard;
 - 4. be unreasonably unsightly;
 - 5. cause offensive odors off-site;
 - 6. be allowed to remain uncovered in the rain or snow; or
 - 7. no solid waste, except agricultural solid waste, may be disposed of on-site by any commercial or industrial generator without the prior approval of the Director as specified in this Code.
- C. Bulky waste shall be stored to meet the requirements of Article 6 B.2-5.
- D. For commercial, industrial, and multi-family residential property premises where the quantity of solid wastes generated is sufficient to make the use of individual storage containers impractical, bulk containers may be used. The bulk container may be equipped with compaction equipment.

Section 2. Standards for Collection and Transportation of Solid Waste.

- A. Except as expressly provided otherwise, it shall be a violation of this Code for any person to collect or transport solid waste from residential property without a hauler's

license issued by the Environmental Department. A hauler that exclusively collects solid waste from only commercial or industrial properties or sites is not required to be licensed, and such hauler is not subject to this Code, so long as such hauler does not collect solid waste from residential property.

- B. All vehicles and equipment used for collection and transportation of solid waste shall be designed, constructed, maintained, and operated in a manner that will prevent the escape of wastes from the vehicle.
- C. The business name and telephone number of every hauler shall be printed or painted in legible characters on both sides of all vehicles, containers, and conveyances used by the hauler to collect or transport waste.
- D. Every hauler required to be licensed by this Code shall provide, on forms provided by the Environmental Department, an annual report of the estimated tonnage of solid waste, recyclables, and yard waste collected by such hauler during the prior calendar year.
- E. Solid waste shall not be unloaded from any hauler's vehicle except to load into a larger solid waste collection vehicle, to unload at a licensed facility, transfer station or disposal area. A vehicle may be unloaded to facilitate repairs, to extinguish a fire or for some other emergency. When a vehicle is unloaded due to an emergency situation, the solid waste shall be reloaded and removed promptly after the emergency no longer exists.

Section 3. Standards for Solid Waste Processing Facilities and Disposal Areas.

Solid waste disposal areas and solid waste processing facilities shall be located, designed, operated, maintained, and closed in conformity with KDHE rules and regulations, this Code, and applicable zoning regulations and ordinances.

Section 4. Standards for Solid Waste Transfer Stations.

Solid waste transfer stations shall be located, designed, operated, maintained, and closed in conformity with KDHE rules and regulations, this Code, and applicable zoning regulations and ordinances.

Section 5. Standards for Construction and Demolition Landfills.

Construction and demolition landfills shall be located, designed, operated, maintained, and closed in conformity with KDHE rules and regulations, this Code, and any applicable zoning regulations and ordinances.

Section 6. Standards for Composting Operations.

Composting sites shall be located, designed, operated, maintained, and closed in conformity with KDHE rules and regulations, this Code, and any applicable zoning regulations and ordinances.

ARTICLE 7
SPECIAL WASTE and MEDICAL SERVICES WASTE

Municipal solid waste landfill disposal of special waste and medical services waste shall be segregated, stored, handled, collected, transported, processed, monitored and disposed in conformity with KDHE rules and regulations, this Code, and applicable Environmental Department procedures.

ARTICLE 8
PROHIBITED ACTS

Section 1. Unlawful Acts.

- A. Except as otherwise provided by this Code, no person shall:
1. collect, store, transport, process, treat or dispose of solid waste except in accordance with the provisions of this Code;
 2. collect, haul, or transport solid waste from residential property without obtaining a license from the Environmental Department;
 3. construct, alter, or operate a solid waste storage, treatment, processing, or disposal facility without obtaining a permit from the KDHE and a permit from the Environmental Department;
 4. violate any condition of any license or permit issued KDHE or the Environmental Department;
 5. conduct any solid waste burning activities in violation of the provisions of any state, county, or city law, rule or regulation;
 6. refuse or hinder entry, inspection, sampling, examination or copying of any property or records in furtherance of the purposes of this Code by an Authorized Representative of the Environmental Department.
- B. No person shall dispose of any solid waste by open dumping, but this provision shall not prohibit:
1. The use of solid wastes, except for waste tires, as defined by K.S.A. 65-3424, and amendments thereto, in normal farming operations or in the processing or manufacturing of other products in a manner that will not create a public nuisance or adversely affect the public health; or
 2. an individual from dumping or depositing solid wastes resulting from such individual's own residential or agricultural activities onto the surface of land owned or leased by such individual when such wastes do not create a public nuisance or adversely affect the public health or the environment.
- C. No person shall be found in violation of this section for the illegal dumping or unauthorized depositing of any solid waste on land owned or leased by such person without such person's express or implied consent, permission or knowledge.

- D. It is a violation of this Code for any person to disobey, for fail to comply, with any order, directive, rule, or regulation promulgated and adopted by the Director.

ARTICLE 9
ENFORCEMENT

Section 1. Notification of Violation.

- A. Whenever any person is found to be in violation of any provision of this Code, or not in compliance with the conditions of any license or permit issued pursuant to this Code, or in violation of any administrative order, directive, rule, or regulation promulgated and adopted by the Director, a notice of violation letter shall be hand delivered, sent by facsimile, electronic mail, by first class mail, or by any other reliable means, to the person at the person's last known address advising the person of the violation and the remedial action required, if any.
- B. A notice of violation may be accompanied by a citation for the alleged violation requiring the alleged violator to appear for arraignment. All citations shall be prosecuted in Johnson County District Court, Codes Court Division.

Section 2. Administrative Orders.

- A. The Director is authorized to issue the following administrative orders at any time it is deemed that such action is appropriate to secure timely and effective compliance with this Code or order issued pursuant to this Code, whether or not any previous notifications of violation have been provided:
1. Cease and Desist Order. The Director may issue an order to cease and desist a violation or an action or inaction which threatens a violation and to direct the violator to comply or to take such appropriate remedial or preventive action as may be needed to address the violation, including halting operations.
 2. Compliance Order. The Director may issue an order requiring a person to provide within a specified period of time, implementation of corrective actions as are necessary to correct a violation.

3. Consent Order. The Director may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with a violator. Such orders shall include specific actions to be taken by the violator and specific time frames to correct a violation or to remove the threat of a violation.

Section 3. Penalties and Fines.

- A. Any person who violates any provision of this Code, including the failure to follow and obey and order, rule, directive, or pay any fee when required to do so, shall be subject to the enforcement procedures set forth in the "*Code of Regulations for Procedures & Enforcement*" established by Resolution 116-88, adopted on August 25, 1988, and punishable, upon conviction, of a "Class I Infraction", with a fine not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00); and
- B. Multiple or repeated violations of any class of violation shall be deemed a violation of the next most serious violation class and subject to a higher fine amount, as provided under the Code of Regulations for Procedures & Enforcement.
- C. Each separate day that a violation exists or occurs after the issuance of a citation shall be considered, for purposes of assessing fines and without the necessity for the issuance of multiple citations, a separate violation, subject upon conviction to an additional and separate fine amount for each day.
- D. The provisions for enforcement of these regulations shall be cumulative and in addition to all other procedures provided by law for the enforcement of county resolutions, codes, or regulations.
- E. This Code is not intended to supersede state statutes or KDHE regulations relating to solid waste and a person.
- F. The Director may, upon any person's conviction for a violation of this Code, suspend, modify, or revoke such person's license or permit issued by the Department.

Section 4. Public Nuisances.

A violation of any provision of this Code is hereby declared to be a public nuisance. Accordingly, it is hereby declared that in the interest of the public health, safety and welfare the elimination or removal of such public nuisances are public purposes, which may be corrected or abated as directed by the Director.

Section 5. Emergency Authority.

For an alleged violation which the Director believes presents or appears to present an immediate danger to the health, safety, or welfare of the public, the Director may notify the user by any reliable means, including telephone, to take immediate action to discontinue or reduce the imminent threat and to take appropriate actions to eliminate the threat within a reasonable amount of time as established by the Director

ADMINISTRATIVE REVIEW

Section 1. Appellate Procedure.

- A. Within fifteen (15) days after the denial of issuance or renewal, or the modification, suspension or revocation, of a license or permit by the Environmental Department, the person aggrieved by such decision may request a review hearing before the Director by filing a written request with the Director and an informal hearing shall be held before the Director within thirty (30) days from the receipt of the request.
- B. Within thirty (30) days after such hearing, the Director shall issue a final decision in writing. Any person aggrieved by the Director's final written decision shall have fifteen (15) days after mailing of the decision to request a Board review of the Director's decision, which review may, at the Board's discretion, be held before the entire Board or before a panel of not less than 3 Board members. The request for review shall be made in writing and shall state the decision appealed from and the basis for the appeal.

- C. The Board shall have thirty (30) days from the date of the request for review to hold a hearing and shall issue its written decision within fifteen (15) days following the hearing. Such decision shall be mailed to the appellant. The Board's review shall be *de novo* and its decision shall be a final decision for purposes of appeal, which appeal shall be to the district court.
- D. Every notice required under this Code to be mailed shall be sufficient if mailed by first class mail.
- E. The issuance of a notice of violation or a citation by the Director under this Code shall not be appealable to either the Director or the Board. All such notices and citations shall proceed through the codes court process without administrative appeal.

-END of DOCUMENT-