

CHAPTER IV. BUILDINGS AND CONSTRUCTION

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ARTICLE 1.

INTERNATIONAL BUILDING, RESIDENTIAL, FUEL GAS, PLUMBING, MECHANICAL, EXISTING BUILDING, NATIONAL ELECTRIC, AND INTERNATIONAL FIRE CODES

- 4-101. ADOPTION OF INTERNATIONAL BUILDING, RESIDENTIAL , FUEL GAS, PLUMBING, MECHANICAL, EXISTING BUILDING, NATIONAL ELECTRIC, AND INTERNATIONAL FIRE CODES. There is hereby adopted and incorporated by reference, for the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, use and occupancy, location and maintenance of buildings and structures, and plumbing and mechanical equipment, the International Building Code, 2006 Edition, the International Residential Code, 2006 Edition, the International Fuel Gas Code, 2006 Edition, International Plumbing Code, 2006 Edition and the International Mechanical Code, 2006 Edition, the International Existing Building Code, 2006 Edition, the National Electric Code, 2005 Edition, and the International Fire Code, 2006 Edition, as recommended by the International Conference of Building Official, such Codes being made a part of the Ordinances and Code of the City as if the same had been set out in full herein, all as authorized and in the manner prescribed by K.S.A. 12-3009 through 12-3012 including any amendments thereto. At least one copy of each Code referenced herein shall be marked or stamped "Official Copy as Incorporated by the Code of the City of Edgerton," and shall be filed with the City Clerk to be open to inspection and available to the public at all reasonable hours of business. (Ord. 891, 2010; Ord. 732; 2001; Ord. 644, 1994) [*Previous title: Building Code Incorporated.*]

4-102. ADDITIONAL AND REVISED PROVISIONS. The following sections of this Article are in addition to, or are revisions of, the standard codes incorporated by reference in Section 4-101:

(a) Code of Regulations for Buildings and Construction, 2010 Edition.

There is hereby adopted by reference of the Johnson County Code of Regulations for Buildings and Construction, 2008 Edition, with such amendments described herein being approved by the City Council. Such Code shall be known as the “City of Edgerton Code of Regulations for Buildings and Construction, 2010 Edition,” and shall be considered part of the requirements of the City Code of the City of Edgerton, Kansas.

General Provisions:

- (b) **Jurisdictional references.** The following shall be amendments shall be made where referenced throughout the Code:
1. The term “county” shall be replaced with the term “city,” which shall mean the City of Edgerton, Kansas.
 2. The term “Johnson County” shall be replaced with the term “City of Edgerton, Kansas,” which shall mean the City of Edgerton, Kansas.
 3. The term “resolution” shall be replaced with the term “ordinance.”
 4. The term “Board of County Commissioners” shall be replaced with “Governing Body.”
 5. **Article 1, Section One** shall be amended to adopt Code as City of Edgerton Code of Regulations for Buildings and Construction, 2010 Edition.
 6. **Article 1, Section Three** shall be amended to apply Code to all buildings and construction within the corporate limits of the City of Edgerton, Kansas.

Building Code:

- (c) **Article 2, Section 2(c)** shall be amended as “the term misdemeanor, unless specifically defined or provided for herein, shall mean Class A violation,” and such amendment shall be made where referenced throughout the Code.
- (d) **Article 2, Section 2(d)** shall be deleted.
- (e) **Article 2, Section 4(a)(1)** shall replace “the water district” with “the applicable water utility provider.”
- (f) **Article 2, Section 4(a)(2)** shall replace “the water district” with “the applicable water utility provider.”
- (g) **Article 2, Section 4(a)(3)** shall replace “a legally created sewer district in the County” with “the City.”
- (h) **Article 2, Section 4(a)(3)** shall replace “Johnson County Wastewater District” with “City of Edgerton,” and such amendment being made where referenced throughout the Code.
- (i) **Article 2, Section 4(a)(4)** shall replace “Johnson County Public Works” with “the City,” and such amendment being made where referenced throughout the code.
- (j) **Article 2, Section 4(a)(1)** shall replace “the water district” with “the applicable water utility provider.”

- (k) **Article 2, Section 4(b)** shall provide a Schedule of Permit Fees applicable to non-residential building permits and residential building permits.
- (l) **Article 2, Section 5(f)** shall be approved by the Building Inspector “with the advice and consent of the Johnson County Fire District No. 1.”

Residential Code:

- (m) **Article 3, Section 2(d)** shall be deleted.
- (n) **Article 2, Section 5(c)** shall provide a Schedule of Permit Fees applicable to residential building permits.

Fire Code:

- (o) **Article 9, Section 2 (a)(3)** designates the Johnson County Fire District No. 1 Fire Chief or designee as Building Code Official in specific circumstances.
- (p) **Article 9, Section 2(j)** deletes “licensed to do so by the Johnson County Contractor Licensing Program.”
- (q) **Article 9, Section 4(c)** replaces “Emergency Communications Center” with “the City” for water distribution system failure notifications.
- (r) **Article 9, Section 5 (c)** replaces “County Manager” with “City Administrator,” and such amendment being made where referenced throughout the Code.
- (s) **Article 9, Section 5(c)** adds the designation of a “qualified” member of a fire district, the Public Works Department, or other qualified City official to exercise power and perform the duties of fire prevention engineer.
- (t) **Article 9, Section 5(f)** provides that Chapter 7 of the City Code contains regulations pertaining to explosives, fireworks, and blasting in addition to Chapter 33 of the International Fire Code.

Special Rules and Procedures:

- (u) **Article 11** shall be reserved for future special rules and procedures.

Blasting Regulations:

- (v) **Article 14, Section 1(b)** replaces “City Hall” with the “Department of Planning, Development, and Codes.”

Reserved:

- (w) **Article 15** shall be reserved for future use.
- (x) **Article 16** shall be reserved for future use.

Special Rules and Procedures:

- (y) **Article 19, Section 1** replaces “through the establishment of the Division of Code Enforcement and the designation of the Johnson County Fire Marshal” with “through the designated Building Officials and Fire Chief.”
- (z) **Article 19, Section 5** replaces the “Johnson County Zoning and Subdivision Regulations” with the “City of Edgerton Unified Development Code, including the zoning and subdivision regulations.”

Violations and Classification of Offenses:

- (aa) **Article 20, Section 3** shall state “Any person who violates any provision of or failing to comply with any mandatory requirements of this Code of Regulations for Buildings and Construction shall be punishable, upon conviction , by a fine of not more than \$500 or by imprisonment not to exceed six months, or by both such fine and imprisonment. Each person is guilty of a separate offense for each and every day during any portion of

which any violation of any provision of this Code of Regulations is committed or permitted by any person.” (Ord. 891, 2010; Ord. 732, 2001)
[Previous title: Residential Code Incorporated]

4-103. to 4-107. (RESERVED FOR FUTURE USE)

4-108. **PRINCIPAL STRUCTURE DEFINED.** The term “principal structure”, as used in Section 4-109, shall mean a building or other structure that will be used for a purpose specifically authorized under the then existing zoning laws or regulations. (Ord. 686, 1997)

4-109. **BUILDING PERMITS.** No building or structure shall be moved, constructed, erected, altered or remodeled, nor shall any such work be commenced upon any lands within the city limits until a building permit therefor has been applied for and issued by the city clerk. Applications for building permits shall be filed with the city clerk in duplicate upon prescribed forms setting forth the legal description of the lot, tract or parcel of land, together with a general description of the building or structure to be constructed, erected or altered thereon, including size, shape, square foot area and cubic content, principal material or construction and location of the building or structure upon the lot, tract or parcel of land and the intended use. If the application is submitted for the purpose of obtaining a permit for the construction of principal structure, the applicant shall also furnish a plot plan, certified by a licensed engineer, drawn showing the relation of the structure to the property lines of the tract where situated or to be situated and the location of sewer, gas, water and electric lines to serve the structure. (Ord. 686, 1997; Ord. 372, 1968)

4-110. **SAME; ISSUED.** The building inspector shall be empowered to issue a building permit for all structures as set out in the zoning regulations of the city. (Ord. 651, 1994)

4-111. **SAME; DEPOSIT.** Each building permit shall specify the final completion date of proposed structure or alteration which date shall not be later than one year from date of permit. Extensions, specifically authorized with required fees shall not exceed 120 calendar days.

(a) Applicant executes a certificate certifying that work authorized by the permit has been fully completed structurally in accordance with the conditions of the building permit and final inspection has been made by the building inspector.

(b) Applicant within the life of the permit, certifies that construction has not and will not be started and the permit surrendered. (Ord. 899, 2011; Ord. 651, 1994)

4-112. **SAME; FEES.** Fees shall be charged and collected from the applicant, based upon the estimated total cost of each building, based upon plans and specifications supplied by the applicant, including attached porches, garages, or

other appurtenances to be constructed, erected, or altered as permitted by such permit. For each permit issued pursuant to this article, relating to the International Building Code and/or the International Residential Code, the following fees are established:

(a) Permits are valid for one year from the date of issuance.

TOTAL VALUATION	FEE
\$ 1 TO \$500	\$13
\$ 501 TO \$2,000	\$13 for the first \$500 plus \$1.50 for each additional \$100 or fraction thereof, to and including \$2,000.
\$2,001 to \$25,000	\$35.50 for the first \$2,000 plus \$8.00 for each additional \$1,000 or fraction thereof, to and including \$25,000.
\$25,001 to \$50,000	\$219.50 for the first \$25,000 plus \$6.50 for each additional \$1,000 or fraction thereof, to and including \$50,000.
\$50,001 to \$100,000	\$382.00 for the first \$50,000 plus \$4.00 for each additional \$1,000 or fraction thereof, to and including \$100,000.
\$100,001 to \$500,000	\$582.00 for the first \$100,000 plus \$3.00 for each additional \$1,000 or fraction thereof, to and including \$500,000.
\$500,001 and up	\$1,782.00 for the first \$500,000 plus \$2.00 for each additional \$1,000 or fraction thereof.

(b) Extension for completion of any work authorized by a permit may be given for a period not to exceed 120 calendar days and extension fees shall be ½ of the total original fee.

(c) Other inspections and fees:

1. After Hours Building Inspection Fees	\$50.00 per hour (one hour minimum)
2. Re-Inspection Fees	\$ 25.00 per hour (Paid in Advance)

3. Certificate of Occupancy \$10.00
(Ord. 760, 2004; Ord. 732, 2001; Ord. 651, 1994)

4-113. SEPARATE PERMITS AND INSPECTIONS. (a) There shall be a separate permit for each building or structure to be constructed, erected or altered, except accessory buildings and appurtenances which may be included in the permit for the principal building when such construction is simultaneous.

(b) Ten (10) days of any Accessory Structure (defined as a secondary structure detached from the principal structure but on the same premises, including, but not limited to, garages, sheds, barns, or outbuildings) being placed or constructed on land within the city, the owner of such land or structure shall request an inspection of the structure by the city building inspector to ensure the building complies with the City's Environmental Code (Article 3 of Chapter 8 of the City Code). Failure to request an inspection of an accessory structure, or allowing an accessory structure that has not been inspected or has failed an inspection to remain on land within the city, shall constitute a violation of this Article and upon conviction in Municipal Court shall subject the violator to a fine of not less than \$50 nor more than \$100, or by imprisonment, for not more than 30 days, or by both such fine and imprisonment, for each offense. For the purposes of this Section, a separate offense shall be deemed committed on each day during or on which such violation is permitted to exist. Provided, that nothing herein shall be construed as waiving the city's building permit requirements as they apply to accessory structures. (Ord. 776, 2005; Ord. 372, 1968)

4-114. PARK IMPACT FEES. There is hereby established a Park Impact Fee which shall be assessed against every new Principal Structure, as defined in this Chapter. Payment of the following park impact fee shall accompany each application for a building permit:

Park Impact Fee/Residential	\$300 per unit
Park Impact Fee/Commercial	\$.08 per square foot of building
Park Impact Fee/Industrial	\$.08 per square foot of building

(Ord. 763, 2004; Ord. 372, 1968) [Prior title, Same, Land Outside the City]

4-115. CITY BUILDING INSPECTOR. The office of building inspector is hereby created. The building inspector shall be classified as a full time employee of the city, subject to all of the rules and regulations governing other full time employees of the city and provided the same benefits as such other employees receive, and shall not be appointed by the Mayor each year. Any reference to building inspector throughout this Code shall include his or her authorized designee. (Ord. 839, 2008; Ord. 372, 1968)

4-116. SAME; POWERS AND DUTIES. The powers and duties of the city building inspector shall be the inspection of all permitted construction to observe the compliance with the permit issued, together with all other applicable city

ordinances, and the reporting to the governing body of any and all violations. The city building inspector shall perform such other duties as may be directed by the governing body. (Ord. 372, 1968)

- 4-117. SAME; RIGHT OF ENTRY. The building inspector, or his or her agent, upon proper identification, shall have authority to enter any building, structure or premises at any reasonable hour to perform his or her duties as set out herein. (Code 1984)
- 4-118. CLARIFICATION; MODIFICATION. (a) The governing body of the city shall be the final determiner of the scope and meaning of all provisions of the building code which may be unclear, ambiguous, or requiring interpretation.
(b) The building inspector shall have power to modify any of the provisions of the building code upon application in writing by the owner or lessee or his or her authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code. In approving modifications, the building inspector shall see that the spirit of the code is observed, public safety secured and substantial justice done. The particulars of a modification when granted or allowed and the decision of the inspector thereon shall be entered upon the records of the building inspector and a signed copy shall be furnished to the applicant. (Code 1984)
- 4-119. LIABILITY. This article shall not be construed to relieve from any liability or lessen the liability of any person performing any activity connected herewith, nor shall the city be held as assuming any liability by reason of any inspection authorized herein, or by reason of any certificate of inspection issued by it. (Code 1984)

ARTICLE 2. PLUMBING CODE

- 4-201. CODE ADOPTED. Repealed by Ord. 891, 2010 – See Code 4-101. (Ord. 734, 2001; Ord. 646, 1994)
- 4-202 - 208. (Reserved for future use)
- 4-209. PLUMBING INSPECTOR. The position of plumbing inspector is hereby created. The building inspector, or his or her designee, shall serve as the city plumbing inspector. The plumbing inspector shall be responsible for the issuance of plumbing permits and the enforcement of this article. (Ord.839, 2008; Code 1984)
- 4-210. RIGHT OF ENTRY. The plumbing inspector, or his or her agent, upon proper identification, shall have authority to enter any building, structure or premises at any reasonable hour to perform his or her duties as set out herein. (Code 1984)

- 4-211. **MODIFICATIONS.** The plumbing inspector shall have power to modify any of the provisions of the plumbing code upon application in writing by the owner or lessee or his or her authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code. In approving modifications, the plumbing inspector shall see that the spirit of the code is observed, public safety secured and substantial justice done. The particulars of a modification when granted or allowed and the decision of the inspector thereof shall be entered upon the records of the plumbing inspector and a signed copy shall be furnished to the applicant. (Code 1984)
- 4-212. **INSURANCE.** A plumber, plumbing contractor, gas fitter or gas fitting contractor, as defined in section 4-701, shall, before engaging in business procure and maintain a liability insurance policy in the amount of \$100,000 for the death or injury of any one person and \$300,000 for the death or injury of any number of persons in any one accident and \$50,000 for property damages in any on accident. Such policies of insurance shall be issued by some insurance company authorized to do business in the State of Kansas. Such person may qualify as to the insurance requirements by filing a certificate with the city clerk executed by the resident agent of such company stating that the required policy of insurance has been issued by such company for the purpose required by this article and that such insurer will not cancel the policy except upon giving 30 days' notice in writing to the city; and that the certificate shall be filed for an annual period beginning January 1 and ending December 31 of such year. (Code 1984)
- 4-213. **LIABILITY.** This article shall not be construed to relieve from any liability or lessen the liability of any person performing any activity connected herewith, nor shall the city be held as assuming any liability by reason of any inspection authorized herein, or by reason of any certificate of inspection issued by it. (Code 1984)

ARTICLE 3. ELECTRICAL CODE

- 4-301. **STANDARD CODE; ADOPTED.** Repealed by Ord. 891, 2010 – See Code 4-101. (Ord. 733, 2001; Ord. 647, 1994)
- 4-301 - 308 (Reserved for future use)
- 4-309. **ELECTRICAL INSPECTOR.** The position of electrical inspector is hereby created. The building inspector, or his or her designee, shall serve as the city electrical inspector. The electrical inspector shall be responsible for the issuance of all electrical permits and the enforcement of this article. (Ord. 839, 2008; Code 1984)
- 4-310. **SAME; RIGHT OF ENTRY.** The electrical inspector, or his or her agent, upon proper identification shall have authority to enter any building, structure, or

premises at any reasonable hour to perform his or her duties as set out in this article. (Code 1984)

4-311. **MODIFICATIONS.** The electrical inspector shall have power to modify any of the provisions of the electrical code upon application in writing by the owner or lessee or his or her authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code. In approving modifications, the electrical inspector shall see that the spirit of the code is observed, public safety secured and substantial justice done. The particulars of a modification when granted or allowed and the decision of the inspector thereon shall be furnished to the applicant. (Code 1984)

4-312. **INSPECTION.** It shall be the duty of every person who shall place wiring or electrical equipment in any building to report to the electrical inspector immediately upon completion of the work and before such wiring or equipment has been concealed or covered by any lath, plaster, ceiling or any other material whatsoever. The electrical inspector shall within 24 hours make careful inspection of the wiring. If the installation is approved the electrical inspector shall issue a certificate showing such approval and authorize the delivery and maintenance of electric current to such building.

If the wiring does not comply with the code, no certificate shall be issued until all the requirements of the code have been complied with, such compliance to be ascertained by the electrical inspector upon actual examination. (Code 1984)

4-313. **FURNISHING ELECTRICITY.** Any utility company is hereby forbidden to make any electrical connection by means of which electric current may be conveyed or maintained, on or about any building in the city until the owner or his or her authorized agent shall have secured from the electrical inspector a certificate that the wiring of such building has been inspected and approved. (Code 1984)

4-314. **INSURANCE.** An electrician or electrical contractor, as defined in section 4-701, shall, before engaging in business procure and maintain a liability insurance policy in the amount of \$100,000 for the death or injury of any one person and \$300,000 for the death or injury of any number of persons in any one accident and \$50,000 for property damages in any on accident. Such policies of insurance shall be issued by some insurance company authorized to do business in the State of Kansas. Such person may qualify as to the insurance requirements by filing a certificate with the city clerk executed by the resident agent of such company stating that the required policy of insurance has been issued by such company for the purpose required by this article and that such insurer will not cancel the policy except upon giving 30 days' notice in writing to the city; and that the certificate shall be filed for an annual period beginning January 1 and ending December 31 of such year. (Code 1984)

4-315. LIABILITY. This article shall not be construed to relieve from any liability or lessen the liability of any person performing any activity connected herewith, nor shall the city be held as assuming any liability by reason of any inspection authorized herein, or by reason of any certificate of inspection issued by it. (Code 1984)

ARTICLE 4. DANGEROUS AND UNSAFE BUILDINGS

4-401. PURPOSE. The governing body of the City of Edgerton has found that there exist within the corporate limits of the city structures which are unfit for human use or habitation because of dilapidation, defects increasing the hazards of fire or accidents, structural defects or other conditions which render such structures unsafe, unsanitary or otherwise inimical to the general welfare of the city, or conditions which provide a general blight upon the neighborhood or surrounding properties. It is hereby deemed necessary by the governing body to require or cause the repair, closing or demolition or removal of such structures as provided in this article. (K.S.A. 12-1751; Code 1984)

4-402. DEFINITIONS. For the purpose of this article, the following words and terms shall mean:

- (a) Structure shall include any building, wall, superstructure or other structure which requires location on the ground, or is attached to something having a location on the ground.
- (b) Public Officer means the city building inspector or his or her authorized representative. (K.S.A. 12-1750; Code 1984)

4-403. PUBLIC OFFICER; DUTIES. The public officer is hereby authorized to exercise such powers as may be necessary to carry out the purposes of this article.

Including the following:

- (a) Inspect any structure which appears to be unsafe, dangerous or unfit for human habitation;
- (b) Have authority to enter upon premises at reasonable hours for the purpose of making such inspections. Entry shall be made so as to cause the least possible inconvenience to any person in possession of the structure. If entry is denied, the public officer may seek an order for this purpose from a court of competent jurisdiction;
- (c) Report all structures which he or she believes to be dangerous, unsafe or unfit for human habitation to the governing body;
- (d) Receive petitions as provided in this article. (Code 1984)

4-404. PROCEDURE; PETITION. Whenever a petition is filed with the public officer by at least five residents charging that any structure is dangerous, unsafe or unfit for human habitation, or whenever it appears to the public officer on his or her own motion that any structure is dangerous, unsafe or unfit for human habitation, he or she shall, if his or her preliminary investigation discloses a basis for such charges, report such findings to the governing body. (Code 1984)

- 4-405. SAME; NOTICE. The governing body upon receiving a report as provided in section 4-404, shall by resolution fix a time and place at which the owner, the owner's agent, any lienholder of records and any occupant of the structure may appear and show cause why the structure should not be condemned and ordered repaired or demolished. (K.S. A. 12-1752; Code 1984)
- 4-406. SAME; PUBLICATION. (a) The resolution shall be published once each week for two consecutive weeks on the same day of each week. At least 30 days shall elapse between the last publication and the date set for the hearing.
(b) A copy of the resolution shall be mailed by certified mail within three days after its first publication to each owner, agent, lienholder and occupant at the last known place of residence and shall be marked "deliver to addressee only."
(K.S.A. 12-1752; Code 1984)
- 4-407. SAME; HEARING, ORDER. (a) If, after notice and hearing, the governing body determines that the structures under consideration is dangerous, unsafe or unfit for human use or habitation, it shall state in writing its findings of fact in support of such determination and shall cause to be served upon the owner or agent an order directing such owner to either repair or demolish or remove the structure.
(b) If the repair, alteration, or improvement of the structure can be made at a cost which shall not exceed 50 percent of the fair market value of the structure, the owner of the property shall, within the time specified in the order, repair, alter or improve the structure to render it safe and fit for human use or habitation, or shall vacate and close the structure until such time as he or she has complied with the order.
(c) If the repair, alteration or improvement of the structure cannot be made at a cost of 50 percent or less of its fair market value, the owner shall, within the time specified in the order, remove or demolish the structure. (Code 1984)
- 4-408. DUTY OF OWNER. Whenever any structure within the city shall be found to be dangerous, unsafe or unfit for human use or habitation, it shall be the duty and obligation of the owner of the property to render the same secure and safe or to remove the same. (Code 1984)
- 4-409. SAME; FAILURE TO COMPLY. (a) If, within the time specified in the order, the owner fails to comply with the order to repair, alter, improve or vacate the structure, the public officer may cause the structure to be repaired, altered, improved, or to be vacated and closed.
(b) If, within the time specified in the order, the owner fails to comply with the order to remove or demolish the structure, the public officer may cause the structure to be removed and demolished. (Code 1984)
- 4-410. SAME; MAKE SITE SAFE. Upon removal of any structure, the owner shall fill any basement or other excavation located upon the premises and take any other action necessary to leave the premises in a safe condition. If the owner fails to

take such action, the public officer may proceed to make the site safe. (Code 1984)

- 4-411. **ASSESSMENT OF COSTS.** (a) The cost to the city of any repairs, alteration, improvements, vacating, removal or demolition by the public officer, including making the site safe, shall be reported to the city clerk.
- (b) The city clerk may sell any salvage from the structure and apply the proceeds or any necessary portion thereof to pay the cost of removing the structure and making the site safe. Any proceeds in excess of that required to recover the costs shall be paid to the owner of the premises upon which the structure was located.
- (c) If the proceeds of the sale of salvage is insufficient to recover the cost, or if there is no salvage, the city clerk shall, at the time of certifying other city taxes, certify the unpaid portion of the costs to the county clerk who shall extend the same on the tax roll of the county. (K.S.A. 12-1756; Code 1984)
- 4-412. **IMMEDIATE HAZARD.** When in the opinion of the governing body any structure is in such condition as to constitute an immediate hazard requiring immediate action to protect the public, the governing body may direct the public officer to erect barricades or cause the property to be vacated, taken down, repaired, shored or otherwise made safe without delay. Such action may be taken without prior notice to or hearing of the owners, agents, lienholders and occupants. The cost of any action under this section shall be assessed against the property as provided in section 4-411. (Code 1984)
- 4-413. **APPEALS FROM ORDER.** Any person affected by an order issued by the governing body under this article may, within 30 days following service of the order, petition the district court of the county in which the structure is located for an injunction restraining the public officer from carrying out the provisions of the order pending final disposition of the case. (Code 1984)

ARTICLE 5. MOVING BUILDNGS

- 4-501. **PERMIT NECESSARY.** It shall be unlawful for any person to move, haul or transport, any house, building, derrick or other structure of the height of 16 feet or over, or of a width of 15 feet or more upon, across or over any street or alley in this city without first obtaining a permit therefore as hereinafter provided. (Code 1984)
- 4-502. **APPLICATION FOR PERMITS.** All applications for permits to move houses, buildings, derricks or other structures mentioned in section 4-501 shall be made in writing to the city clerk specifying the day and hour the moving is to commence and the route thru the city's streets over which the building or structure shall be moved. If it shall be necessary to cut down and move, raise or in any manner interfere with any wires or poles, the application shall state the name of the owners of the wires and poles, the time and place, when and where the removal of

the poles and the cutting, raising, or otherwise interfering with the wires will be necessary. (Code 1984)

- 4-503. FEES FOR PERMITS. Before a permit to move any house, building, derrick or other structure is granted under the provisions of this article, applicant for the permit shall pay to the city clerk the sum of \$5 therefor, which shall be deposited to the credit of the general fund of the city. (Code 1984)
- 4-504. CITY CLERK TO NOTIFY WIRE OWNERS. The city clerk shall upon filing of such application, give not less than 24 hours written notice to the person, firm or corporation owning or operating such wires or poles or to their agents, of the time and place, when and where the removal of the poles, or the cutting, raising or otherwise interfering with the wires shall be necessary. (Code 1984)
- 4-505. DUTY OF OWNERS OF POLES OR WIRES. It shall be the duty of the person, firm or corporation owning or operating the poles or wires after service of notice, as required in section 4-504 to furnish competent workmen or linemen to remove such poles or raise or cut such wires, as will be necessary to facilitate the moving of such house, building, derrick or other structure. The necessary expense which is incurred thereby shall be paid by the holder of the moving permit. (Code 1984)
- 4-506. UNLAWFUL TO MOLEST WIRES. No person engaged in moving any house, building, derrick or other structure shall raise, cut or in any way interfere with any such poles or wires unless the persons or authorities owning or having control of the same shall refuse to do so after having been notified as required in section 4-504 and then only by competent workmen as specified in section 4-504. In such case the necessary and reasonable expense shall be paid by the owners of the poles and wires handled and the poles and wires shall be promptly replaced and the damages thereto promptly repaired. (Code 1984)
- 4-507. DUTY OF BUILDING INSPECTOR. It shall be the duty of the building inspector, from time to time, to inspect the progress of moving of any building, house or other structure and to see that the house, building or other structure is being moved in accordance with the provisions of this article. (Code 1984)
- 4-508. DUTY OF MOVER. It shall be the duty of any person, firm or corporation moving any of the structures mentioned in section 4-501 to display red lanterns thereon in such a manner as to show the extreme height and width thereof from 30 minutes before sunset to 30 minutes after sunrise. (Code 1984)
- 4-509. MOVER TO FURNISH BOND. The council may require any person at the time of making application for a permit as provided in section 4-501 to execute in the favor of the city a good and sufficient surety bond indemnifying the city against any loss or damage suit resulting from the failure of such person to comply with the provisions of this article or from their negligence. The amount of the surety bond shall be determined by the city council. (Code 1984)

ARTICLE 6. MECHANICAL CODE

4-601. CODE ADOPTED. Repealed by Ord. 891, 2010 – See Code 4-101. (Ord. 736, 2001; Ord. 645, 1994)

ARTICLE 7. CONTRACTOR LICENSING

4-701. COUNTY LICENSE REQUIRED.

- (a) All persons undertaking work which requires a building permit as provided in Section 4-109, or seeking to obtain that permit from the City, are required to have a currently valid Johnson County, Kansas contractor's license. That County license shall have been issued by the County in accordance with the provisions of the Johnson County Contractors Licensing program and the Contractor Licensing Regulations adopted by the Board of County Commissioners by Resolution 058-01 on August 9, 2001, and any regulations subsequently adopted by the Contractor Licensing Review Board as authorized by said County Licensing Regulations, as said Resolution and regulations may be amended from time to time by said Boards.
- (b) The following shall be exempt from the licensing requirement of Section 4-701 (a) herein:
 - (1) Installation, repair or replacement of fences or decks.
 - (2) Installation, repair or replacement of driveways or other flatwork.
- (3) Industrial Permittees who supervise their employees for Mechanical, Electrical and Plumbing installations and who assume charge of the repair, improvement, movement, putting up, tearing down, and maintenance of these systems, for use by such owner and which systems will not be for sale or rent, and the control of access to said systems are controlled by the owner so that only employees and nonpublic invitees are allowed access to them, and such employees shall possess the necessary qualifications, training, experience, and technical knowledge to properly maintain, repair and install these systems.
- (4) The Building Inspector may waive the provisions of this section where it can be established that no license exists for the installations, alteration, or repair of a certain type of work requiring a permit, or due to other unique circumstances.
- (5) Construction, repair or replacement of structures used for Residential Purposes. (Ord. 1015, 2016; Ord. 554, 1986) (Ord. 1015 repealed previous Article 7)

ARTICLE 8. OIL AND GAS WELLS

4-800(a).FINDINGS. The city of Edgerton hereby finds and declares as a matter of public policy, that the extraction of the oil and gas resources from lands within the city's corporate boundaries as a temporary activity is required in the interest of the energy and resource needs of the city, state, region and nation, but that

uncontrolled drilling and production would be detrimental to the public health, safety, comfort, convenience, prosperity, and general welfare. (Ord. 544, 1985)

4-800(b).PURPOSE. The purposes of this article are to establish uniform and reasonable limitations, safeguards, and controls as necessary:

- (a) To assist the local, state, regional and national demand for oil and gas resources.
- (b) To aid those owners of land in the economic utilization of the land until growth and development progresses into the area.
- (c) To protect existing residential and commercial from incompatible activities.
- (d) To provide for the orderly growth and development of lands consistent with the Edgerton, Kansas, comprehensive plan.
- (e) To minimize any risks to the public health, safety, comfort, convenience, and prosperity, and general welfare.
- (f) To avoid undue liability for the city, its residents, and businesses.
- (g) To maintain the city's character and economic vitality.
- (h) To insure that oil and gas development do not hinder the growth potential of the city. (Ord. 544, 1985)

4-801. WELL DEFINED. A well or wells for the purpose of this article shall mean any well drilled, or to be drilled, or used, for the production of petroleum, natural gas or this disposal of waste liquids or gases produced therefrom. (Ord. 544, 1985)

4-802. PERMIT. It shall be unlawful for any person, firm, corporation to drill or commence operations for the drilling of a well for oil and/or gas purposes at any place within the city limits of the city of Edgerton without first having obtained from the governing body of the city, a permit for the commencement of such operations, and for the drilling of such well. (Ord. 544, 1985)

4-803. PERMIT FEE. The fee for a permit to conduct oil or gas well drilling operations within the city limits shall be \$150 per well. (Ord. 544, 1985)

4-804. LICENSE. Every person, firm or corporation, authorized to conduct oil or gas well operations in this city, shall obtain a license to operate each well drilled. The fee for each well shall be \$25 annually.

The applicant for such permit or license, shall, at the time of making application therefore, deposit with the city clerk the above stated fees.

In the event the permit or license is granted by the governing body said fees shall be retained by the city, but if such permit or license is denied, the fee shall be returned to the applicant. (Ord. 544, 1985)

4-805. PERMIT AND LICENSE PROCEDURE; EVIDENCE TO BE PRESENTED BY APPLICANT. (a) No permit or license shall be granted by the governing body until the applicant therefore shall have submitted satisfactory evidence as follows:

Applications:

(1) The applicant shall file an application for oil and/or gas well drilling on forms furnished by the city. The application shall include and be accompanied by the following:

- (A) The names, addresses and phone numbers of the applicant, the operator and owner.
- (B) The location map showing the lease and its relationship to existing subdivisions, community facilities, public ground and commercial areas.
- (C) A site plan of the drilling area or some lesser area identified by the applicant showing all structures within three hundred (300) feet of the drilling area or the lesser area including:
 - (1) The location, use and width of all easements and rights of way;
 - (2) The location of any waterway;
 - (3) The location of lots, streets, alleys, easements and rights of way;
 - (4) Written consent of the landowner on which the well is proposed to be located;
 - (5) Statement of Assurance for compliance with all federal, state and local laws;
 - (6) Proof of compliance with K.S.A. Chapter 55-128;
 - (7) A statement of safety for operations and equipment;
 - (8) Such other information which the city deems essential to be a determination regarding the issuance of a license and which information request is consistent with the intent purpose of this chapter;
 - (9) A certificate of insurance in conformity with section 4-815;
 - (10) Cash or corporate surety bonds(s) in conformity with section 4-816;
 - (11) The intended exploratory well locations(s) in conformity with section 4-805;
 - (12) The permit/license fee in conformity with section 4:803 and 804;
 - (13) A written drilling plan providing adequate protection to all persons who might be concerned with such drilling operations, including a reasonable and adequate plan for the handling of sludge, base sediment and salt water that may be produced in connection with the drilling and operation of the well together with facilities for the handling of production to the end that it may not be necessary to store oil in any populated area;
 - (14) A written assurance that drilling rigs employed in the drilling of oil or gas wells within the city are equipped with blow out preventers at all times that they are operating. (Ord. 544, 1985)

4-806. APPLICATION ACCEPTANCE. The application shall be considered officially filed after it has been examined by the city and found to contain the information required by this article for proper review. Lack of complete information shall be deemed sufficient cause for refusing acceptance. (Ord. 544, 1985)

4-807. APPLICATION REVIEW PROCESS. The city shall transmit for review and comment, copies of the proposed drilling or production wells and appurtenances, accompanied by the pertinent information to the governing body, or other appropriate agencies. All objections, recommendations, or comments shall be filed within five (5) working days after the submittal date unless an extension is requested and granted by the city. (Ord. 544, 1985)

4-808. APPROVAL/DENIAL. After acceptance of the application by the city the governing body shall address the application at a regular or special meeting of the city council. The application shall be approved or denied during said meeting. Should any deficiencies be discovered or additional information be required the governing body may table the application until next regularly scheduled or special meeting of the city council. When a permit or license is denied the denial shall be placed in writing and delivered to the applicant by hand or regular United States mail.

Approval of any permit and/or license is limited to the well(s) on which the required information is provided and approved.

Approval of any permit and/or license shall not be construed nor is intended to imply that associated activities or industries, such as refineries, dehydrating or absorption plants, are permissible.

Approval of any permit and/or license shall not be construed nor is intended to imply that storage of equipment is allowed.

Denial of any permit and/or license shall prohibit any drilling or production related activities from being initiated or carried out. (Ord. 544, 1985)

4-809. REQUIREMENTS AND INSPECTIONS. (1) Completion Report – Within ten (10) days after completion of the well, the permittee or licensee shall file a report indicating the status of the well as being oil, gas, dry, injection, or disposal with the city on a form furnished by the city.

(2) Inspections – Required – The city shall in addition to responding to complaints about the wells perform the following inspection to determine conformance with the approved plans and conditions and requirements of this article, and to determine whether additional requirements are necessary to protect the public health or safety;

(a) An inspection during drilling operations;

(b) An inspection after the well is completed and the production equipment, including wellhead, pipes, tanks, dikes, fencing, are being or have been installed but before production has commenced;

(c) An annual inspection; and

(d) An inspection following abandonment of the well.

(3) Authorization to Enter – The city is authorized and directed to enter lands on which licenses for oil and/or gas have been granted for the purpose of carrying out inspections, routine or non-routine, and to perform any work or act

required by this article. Such entry shall be for inspection or performance of work, except in case of emergency, or if the consent of the permittee has otherwise been obtained. (Ord. 544, 1985)

- 4-810. **FIRE PREVENTION AND PROTECTION.** The licensee shall maintain a fire prevention plan which conforms to local, state and federal regulations governing the drilling for oil or gas and for the temporary storage of oil in tank batteries. Said plan shall be designed to control and eliminate any fire or risk of fire as promptly as possible. (Ord. 544, 1985)
- 4-811. **PUMPING; FENCES.** All producing oil wells within the city shall be equipped with electric pumping equipment and all producing wells that are located in said city, shall have such pumping equipment enclosed or fenced, the fencing to be placed outside the dike, not less than six (6) feet in height and provided with gates equipped with locks which shall be locked when not attended. Said fencing shall be sufficient to prevent persons who might be injured thereby from gaining access to such pumping equipment. Gas wells shall be enclosed or fenced to prevent persons from gaining access to them. (Ord. 544, 1985)
- 4-812. **STORAGE OF OIL.** It shall be unlawful for any persons to place or maintain any tank or tank battery for the temporary storage of oil within 200 feet of any existing structure other than oil related structures. All such tanks or tank batteries shall be protected by dikes sufficient in height to prevent oil from escaping in the event of the leaking or bursting of said tanks and the dikes shall have at least one foot free board above the maximum tank volume capacity. In the event of any leakage or bursting of the tank or tank batteries, and upon notification by the city, the operator will be responsible for clean-up of area within ten (10) days. (Ord. 544, 1985)
- 4-813. **HOURS OF DRILLING.** It shall be unlawful for any person to operate any oil or gas well drilling machinery in the city between the hours of 7:00 p.m. and 7:00 a.m., without the consent of adjoining residents whose residences are within 1,000 feet. (Ord. 544, 1985)
- 4-814. **USE OF CITY STREETS.** (1) It shall be unlawful for any licensee or permittee to use city residential streets not designated for truck traffic to enter or gain access to drilling sites without having submitted to the city the proposed route to be used. The city shall examine the proposed route(s) to determine safety, load limit or possible damage which may occur.
(2) Should access to drilling site(s) from city streets be necessary, permittee and licensee shall, at no cost to the city, use every effort, including the laying of a sufficient gravel accessway from the edge of the street or roadway to the drilling site(s), to prevent mud or debris from being deposited on city streets by vehicles or equipment employed by the permittee, licensee, contractors or subcontractors engaged in the drilling operations. (Ord. 544, 1985)

- 4-815. **INSURANCE OF OPERATOR.** No such permit or license shall be granted by the governing body and no oil or gas well shall be drilled or operated within the city until the permittee and licensee shall be filed with the city clerk of said city a certification of insurance, naming the city as a co-insured, insuring the operator against bodily injury to persons in an amount not less than \$500,000.00 for each person and \$500,000.00 for each accident and insuring the operator against damages to property in an amount not less than \$500,00.00 for each accident and further insuring said operator against bodily injury from motor vehicle and trucking operations in an amount not less than \$500,000.00 for each person and \$500,000.00 for each accident and against property damage by reason of motor vehicle and trucking operators in an amount not less than \$500,000.00 for each accident. Evidence of such insurance shall be kept on file with the city clerk of said city continuously so long as any such well or wells are being drilled or operated within the city. (Ord. 544, 1985)
- 4-816. **BOND OR DEPOSIT REQUIRED.** A good and sufficient surety bond, signed by the applicant for a drilling permit and operating license hereunder and by a corporate surety authorized to do business in the state, or a cash deposit in such amount as deemed sufficient by the city council, but in no event less than \$2,000 shall be tendered to the council and approved by the city clerk prior to the issuance of a permit pursuant to the terms of this article, conditioned upon faithful compliance with the terms and conditions of this article, and further conditioned upon saving and holding the city free and harmless from any damage resulting to the city as a result of drilling, pumping, repairing or other operations by the permittee or licensee, the laying of pipelines, the setting of tanks or as a result of moving machinery and equipment over any street in the city; provided, that the permittee, licensee or their assigns shall pay the annual premium due upon the surety bond within ten (10) days before expiration of each year and file a receipt therefore in the office of the city clerk. (Ord. 544, 1985)
- 4-817. **GOVERNING BODY MAY MAKE ADDITIONAL REQUIREMENTS.** At the time of the granting of any permit or license under the provisions of this article, the governing body may make additional requirements as it may deem necessary for the protection and safety of persons and property in the territory likely to be affected by the drilling or operation of the well. (Ord. 544, 1985)
- 4-818. **DRILLING LOCATIONS.** Drilling for oil or gas within the city limits shall occur only on land containing at least three acres at the time of application for a permit. In no case shall drilling occur within 165 feet of any property line. (Ord. 544, 1985)
- 4-819. **WASTE FLUID DISPOSAL.** It shall be unlawful for any person, firm, or corporation permitted or licensed under this article to maintain a drilling operation within the city to dispose of waste fluids or saltwater from the drilling operation into natural or manmade waterways or the sanitary sewer system of the city. All

drilling wastes shall be removed from the site storage facilities within ten (10) days of completion of the well. (Ord. 544, 1985)

4-820. **ABANDONMENT.** To insure that all lands used for drilling and production is restored to a condition which will not inhibit or adversely affect the health, safety and welfare of the community, the following requirements shall be applicable and except as provided, are in addition to K.S.A. 55-128c thru 55-132a; and further K.A.R. (Kansas Administrative Regulations) 82-2-301 thru 82-2-807, and any amendments thereto.

(a) Removal – All drilling equipment incidental to well's production shall be removed from a lease within ten (10) days after cessation of drilling activity for which a permit was sought and approved under this chapter.

All production related equipment shall be removed from a lease within fifteen (15) days after production of a well has ceased, unless such equipment is actively in use for production activities of the lease or is being installed with due diligence for use on the lease.

(b) Plugging – Any well which is to be abandoned shall be plugged by cementing the well from the bottom to a depth of six (6) feet below grade after the oil well casing is removed or cut to six (6) feet below grade. The city shall receive at least 24 hours prior notice of the time and place any well is to be plugged.

(c) Restoration – All land which is disturbed during drilling or production shall be returned as near as practicable to original grade and stabilized as soon as practical to prevent soil erosion and any reserve pit shall be drained and backfilled, prior to being stabilized.

(d) Time – Any and all wells shall be in production or abandoned within one-hundred eighty (180) days from the time drilling commences.

(e) All plugged wells or test holes shall be accurately located by survey on a plat of survey prepared by a registered surveyor and shall be turned into the city no later than 90 days after capping and/or abandonment. (Ord. 544, 1985)

4-821. **WELLS IN PRODUCTION OR WELLS BEING DRILLED.** Any well actually producing or any well where actual drilling activities have began upon adoption and approval of this article shall be exempt from the original permit fee, however, annual licensing and all other requirements and regulations shall apply. (Ord. 544, 1985)

4-822. **CITY DRILLING ACTIVITIES.** The city of Edgerton and any firm, corporation or operator drilling on behalf of the city on city owned property shall be exempt from all fees; however, all other requirements and regulations shall apply. (Ord. 544, 1985)

4-823. **REVOCATION.** The violation of or breach of any of the terms or conditions of this article, or the ceasing to exist of any of the conditions precedent listed in this article, or the breach of any of the terms or conditions of any permit/license issued pursuant hereto, shall be grounds for the revocation of any permit/license issued hereunder. Such revocation shall take place only upon hearing by the governing

body, of which hearing the permittee/licensee shall be given at least ten (10) days written notice by mail or personal delivery. Mailing of such notice to the last known mailing address of a permittee/licensee shall satisfy the requirements of notice made in this section. (Ord. 544, 1985)

4-824. SAVING CLAUSE. If any section, subsection, sentence, clause or other part of this article shall be held to be invalid or inoperative for any reason, such invalidity shall not be deemed to affect the remaining provisions of this article. (Ord. 544, 1985)

4-825. PENALTY. Any person, firm or corporation hereafter drilling or commencing operations for the drilling of any oil or gas well in violation of the provisions of this article, shall upon conviction hereof, be fined any amount of not less than \$100 and not to exceed \$500 or imprisonment not to exceed 30 days or by both such fine and imprisonment. Each day during or on which a violation occurs or continues shall constitute a separate offense. (Ord. 544, 1985)

ARTICLE 9. FIRE INSURANCE PROCEEDS FUND

4-901. SCOPE AND APPLICATION. The city hereby authorized to utilize the procedures established by K.S.A. 40-3901 et seq., whereby no insurance company shall pay a claim of a named insured for loss or damage to any building or other structure located within the city, arising out of any fire or explosion, where the amount recoverable for the loss or damage to the building or other structure under all policies is in excess of 75 percent of the face value of the policy covering such building or other insured structure, unless there is compliance with the procedures set out in this article. (Ord. 641, 1994)

4-902. LIEN CREATED. The governing body of the city hereby creates an lien in favor of the city on the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure located within the city, caused by or arising out of a fire or explosion, where the amount recoverable for all the loss of damage to the building or other structure under all policies is in excess of 75 percent of the face value of the policy(s) covering such building or other insured structure. The lien arises upon any unpaid tax, special ad valorem levy, or any other charge imposed upon real property, whether or not evidenced by written instrument, or such tax, levy, assessment, expense or other charge that has remained undischarged for at least one year prior to the filing of a proof of loss. (Ord. 641, 1994)

4-903. SAME; ENCUMBRANCES. Prior to final settlement on any claim covered by section 4-902, the insurer or insurers shall contact the county treasurer, Johnson County, Kansas, to determine whether any such encumbrances are presently in existence. If the same are found to exist, the insurer or insurers shall execute and transmit in an amount equal to that owing under the encumbrances a draft payable to the county treasurer, Johnson County, Kansas. (Ord. 641, 1994)

4-904. SAME; PRO RATA BASIS. Such transfer of proceed shall be on a pro rata basis by all insurance companies insuring the building or other structure. (Ord. 641, 1994)

4-905. PROCEDURE. (a) When final settlement on a covered claim has been agreed to or arrived at between the named insured or insureds and the company or companies, and the final settlement exceeds 75 percent of the face value of the policy covering any building or other insured structure, and when all amounts due the holder of the first real estate mortgage against the building or other structure, pursuant to the terms of the policy and endorsements thereto, shall have been paid, the insurance company or companies shall execute a draft payable to the city treasurer in an amount equal to the sum of \$5,000 or 10 percent of the covered claim payment, whichever is less, unless the chief building inspector of the city has issued a certificate to the insurance company or companies that the insured has removed the damaged building or other structure, as well as all associated debris, or repaired, rebuilt, or otherwise made the premises safe and secure.

(b)Such transfer of funds shall be on a pro rata basis by all companies insuring the building or other structure. Policy proceeds remaining after the transfer to the city shall be disbursed in accordance with the policy terms.

(c)Upon the transfer of the funds as required by subsection (a) of this section, the insurance company shall provide the city with the name and address of the named insured or insureds, the total insurance coverage applicable to said building or other structure, and the amount of the final settlement agreed to or arrived at between the insurance company or companies and the insured or insureds, whereupon the chief building inspector shall contact the named insured or insureds by registered mail, notifying them that said insurance proceeds have been received by the city and apprise them of the procedures to be followed under this article. (Ord. 641, 1994)

4-906. FUND CREATED; DEPOSIT OF MONEYS. The city treasurer is hereby authorized and shall create a fund to be known as the "Fire Insurance Proceeds Fund." All moneys received by the city treasurer as provided for by this article shall be place in said fund and deposited in an interest-bearing account. (Ord. 641, 1994)

4-907. BUILDING INSPECTOR; INVESTIGATION, REMOVAL OF STRUCTURE.

(a) Upon receipt of moneys as provided for by this article, the city treasurer shall immediately notify the chief building inspector of said receipt, and transmit all documentation received from the insurance company or companies to the chief building inspector.

(b) Within 20 days of the receipt of said moneys, the chief building inspector shall determine, after prior investigation, whether the city shall instigate proceedings under the provisions of K.S.A. 12-1750 et seq., as amended.

- (c) Prior to the expiration of the 20 days established by subsection (b) of this section, the chief building inspector shall notify the city treasurer whether he or she intend to initiate proceedings under K.S.A. 12-1750 et seq., as amended.
- (d) If the chief building inspector has determined that proceedings under K.S.A. 12-1750 et seq., as amended shall be initiated, he or she will do so immediately but no later than 30 days after receipt of the moneys by the city treasurer.
- (e) Upon notification to the city treasurer by the chief building inspector that no proceedings shall be initiated under K.S.A. 12-1750 et seq., as amended, the city treasurer shall return all such moneys received, plus accrued interest to the insured or insureds as identified in the communication from the insurance company or companies. Such return shall be accomplished within 30 days of the receipt of the moneys from the insurance company or companies. (Ord. 641, 1994)

4-908. REMOVAL OF STRUCTURE; EXCESS MONEYS. If the chief building inspector has proceeded under the provisions of K.S.A. 12-1750 et seq., as amended, all moneys in excess of that which is ultimately necessary to comply with the provisions for the removal of the building or structure, less salvage value, if any, shall be paid to the insured. (Ord. 641, 1994)

4-909. SAME; DISPOSTION OF FUNDS. If the chief building inspector, with regard to a building or other structure damaged by fire or explosion, determines that it is necessary to act under K.S.A. 12-1756, any proceeds received by the city treasurer under the authority of section 5(a) relating to that building or other structure shall be used to reimburse the city for any expenses incurred by the city in proceeding under K.S.A. 12-1756. Upon reimbursement from the insurance proceeds, the chief building inspector shall immediately effect the release of the lien resulting therefrom. Should the expenses incurred by the city exceed the insurance proceeds paid over to the city treasurer under section 5(a), the chief building inspector shall publish a new lien as authorized by K.S.A. 12-1756, in an amount equal to such excess expenses incurred. (Ord. 651, 1994)

4-910. EFFECT UPON INSURANCE POLICIES. This article shall not make the city a party to any insurance contract, nor is the insurer liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy. (Ord. 641, 1994)

4-911. INSURERS; LIABILITY. Insurers complying with this article or attempting in good faith to comply with this article shall be immune from civil and criminal liability and such action shall not be deemed in violation of K.S.A. 40-2404 and any amendments thereto, including withholding payment of any insurance proceeds pursuant to this article, or leasing or disclosing any information pursuant to this article. (Ord. 641, 1994)

ARTICLE 10. EXCISE TAX

4-1001.PURPOSE AND AUTHORITY. The excise tax levied by this article on the act of platting real property or building in the city has for its purpose the raising of general revenues to be used for City expenditures as determined by Resolution of the Governing body. The city's authority to levy this excise tax is derived from Charter Ordinance No. 14, Article 12, Section 5(b) of the Kansas Constitution and K.S.A. 12-137 and 12-138. (Ord. 781, 2005)

4-1002.LEVY AND PAYMENT OF TAX. (a) A tax is hereby levied on the act of platting real property and building in the city. The tax rate shall be \$0.10 per square foot of land which is the subject of the plat or building permit.

(b)Every applicant platting property shall pay to the city, after governing body approval but prior to execution by the mayor and prior to recordation of any approved plat with the register of deeds, a tax equal to the area of the real property (square footage) included in the plat multiplied by the current tax rate, less any applicable credits. Every applicant for a building permit shall pay to the city, after city staff approval, but before receiving a building permit, a tax equal to the area of the real property (square footage) of the lot which is the subject of the building permit multiplied by the current tax rate, less any applicable credits. The area of real property shall be finally determined by city staff. If multiple plats shall be filed in phases, the fee shall be due prior to each individual plat being recorded. In the case of single family residential plats, the excise tax may be paid at the time of platting or, alternatively, may be paid prior to the City's issuance of each building permit. No building permit shall be issued until the excise tax has been paid to the city for the lot in question. After 75% of the lots of the plat in question have been issued building permits, the developer shall pay the excise tax on the balance of the lots remaining at the current tax rate prior to the issuance of any additional single family residential building permits.

Regardless of the multiplied tax total, no single-family residential building permit which is not part of subdivision plat, shall be obligated to pay more than \$1000.00.

- (c) No approved plat subject to this tax shall be recorded until the applicant has paid the tax in full except for those single family lots subject to the provisions of subsection (b) above.
- (d) No building permit subject to this tax shall be issued until the applicant has paid the tax in full.
- (e) All taxes collected shall be deposited by the city clerk in the city's general fund. (Ord. 781, 2005)

4-1003.PLEDGE OF REVENUES. All revenues received from the tax will be placed in the general fund but will be assigned their own line item or account as to segregate said funds from other City funds. Said excise tax funds shall be used

for City expenditures or projects as determined by Resolution of the Governing Body. (Ord. 781, 2005)

- 4-1004.CREDITS/EXEMPTIONS. The excise tax paid on the final plat or building permit pursuant to this article shall be credited in full for:
- (a) Payments previously made pursuant to this article for the same land as part of final plat.
 - (b) Any replat of platted land which does not increase the gross area of the property being replatted except for single-family development in which the previous plat was granted pursuant to the residential cap in subsection (b) above. In such cases, the applicant will pay for the square footage of the land which is the subject of the replat which does not include the land which contains the original homestead land. In the case of non-platted land or lot splits, that portion of land split from the original homestead tract shall be charged at a rate equal to the square footage multiplied by the current tax rate.
 - (c) Land permanently dedicated on a final plat to the city or other public, governmental body as public open space.
 - (d) Developer construction of all or a portion of collector or arterial roads if approved by the governing body and reflected in the city's comprehensive plan, to the extent that such construction shall reduce the city's future costs to construct collector or arterial roads.
 - (e) Land dedicated for public right of way for arterial and collector roads,
 - (f) Developer construction of all or a portion of a collector or arterial road project. Such credit will not be given for minimum infrastructure improvements required of the developer by the city planning commission. Formation of a benefit district may be used for developer construction of a project meeting the definition described in this subsection (f). Application for a credit/exemption pursuant to this subsection (f) shall be waived unless made to, and approved by, the city governing body prior to the city planning commission's consideration of the applicant's final plat.
 - (g) Land dedicated for public right of way for arterial and collector roads shall be exempt from excise tax.
 - (h) No excise tax shall be required for an existing structure being included in a plat so long as such existing structure does not change in use or impact.
 - (i) No excise tax shall be required for a building permit for replacement, remodeling or expansion of an existing single family structure, or for an accessory structure located on property with a single family structure.
 - (j) No excise tax shall be required for remodeling of a non-single family structure, or the building of a non-single family structure to replace an existing non-single family structure, but such remodeling or replacement structure must be contained in the same general footprint of the existing structure and such remodeling or replacement structure shall not increase the usable square footage of the existing structure as determined by city staff. If the remodeled or replacement structure increases the usable square footage of the existing structure, excise tax shall be assessed on a pro rata basis in accordance with the following formula:

Excise Tax Due = (Tax Rate) x (usable square footage of real property) x (increase in usable square footage / usable square footage of existing structure)

Validation of usable square footage may be determined from information submitted by the person or entity seeking the exemption or from applicable county records. If further validation of usable square footage is deemed necessary by city staff, the exemption may be conditioned on an interior inspection of the existing and replacement or remodeled structures. In the case of a structure being replaced, this exemption shall not apply if there is a passage of time of more than one year between the destruction of the structure being replaced and the issuance of an occupancy permit for the replacement structure, provided, however, that such one year time limitation may be extended by the Governing Body upon application by the landowner showing extenuating circumstances that prevented landowner from obtaining an occupancy permit for the replacement structure. Such extension is solely within the discretion of the Governing Body and in no event shall exceed one year. (Ord. 781, 2005)

4-1005.ADJUSTMENT TO TAX RATE. The governing body shall periodically review the tax rate at such time as it deems necessary or appropriate. (Ord. 781, 2005)

4-1006.APPEALS. Any person aggrieved by any decision of the city officer administering the provisions of this code may appeal such decision to the city governing body. The appeal must be filed in writing with the city clerk within 30 days of the final decision by city staff as to the applicability or amount of the excise tax to be applied. The governing body shall have the power to hear and decide appeals where it is alleged that there is an error in the interpretation, application, or calculation by the city officer enforcing the provisions of this excise code. (Ord. 781, 2005)