

**AGENDA**  
**CITY COMMISSION MEETING**  
**Tuesday, September 2, 2014**  
**1:00 P.M.**  
**Amended 09-01-14**

- I. **Note: Pre-meeting at 11:00 a.m. – 11:45 a.m., located in the large meeting room at the City Administrative Center to review funding of regional public transportation and dispatching in Garden City. Administrative staff will be present and the pre-meeting is open to the public.**
- II. **REGULAR MEETING CALLED TO ORDER AND CITY CLERK ANNOUNCING QUORUM PRESENT.**
- III. **PLEDGE OF ALLEGIANCE TO THE FLAG AND INVOCATION.**
- IV. **APPROVAL OF THE MINUTES OF THE LAST REGULAR MEETING, WHICH IF NO CORRECTIONS ARE OFFERED, SHALL STAND APPROVED.**
- V. **PUBLIC COMMENT   Agenda Schedule Allowance: 30 minutes (5 minutes per spokesperson)**
- VI. **CONSIDERATION OF PETITIONS, MEMORIALS AND REMONSTRANCES.**
  - A. Governing Body consideration and approval to authorize the Mayor to proclaim the month of September 14 – October 14, 2014 as Hispanic Heritage Month. The request comes from Angelica Castillo-Chappel on behalf of the Community Mexican Fiesta Association.
  - B. Governing Body consideration and approval to authorize the Mayor to proclaim the week of September 7, 2014 as Direct Support Professionals Recognition Week.
- VII. **REPORT OF THE CITY MANAGER.**
  - A. Fire Chief Allen Shelton has provided the enclosed memorandum detailing the success of the firefighters during the annual Muscular Dystrophy Association Boot Block on Sunday, August 24, 2014. The community responded with donations totaling \$7,207.43.
  - B. Public Works Director Curran will be present to review with the Governing Body the plans for the 2014 Fall Clean-up program to be held September 29 – October 10, 2014.
  - C. The City's auction was held on Friday, August 8, 2014. Net proceeds for the City of Garden City were \$13,495.05.
  - D. Meetings of note:
    - ✓ September 2, 2014 – American Fusion Project at Garden City High School at 7:00 p.m.
    - ✓ September 6, 2014 – A Wild Affair at Lee Richardson Zoo at 6:00 p.m.
    - ✓ September 10, 2014 – KDOT Regional Public Transit Business Model Implementation meeting at the City Administrative Center from 2:30 – 4:00 p.m.
    - ✓ September 11 – 13, 2014 – Garden City Charity Classic at Buffalo Dunes Golf Course

- ✓ September 12- 13, 2014 – 88<sup>th</sup> Garden City Community Mexican Fiesta – on the 12<sup>th</sup> the Queen Pageant 7:00 p.m. at GCCC and on the 13<sup>th</sup> Parade at 10:00 a.m. on Main Street
- ✓ September 17, 2014 – The Mayor’s “State of the City” address at Chamber Breakfast at 7:30 a.m. at The Golf Club at Southwind
- ✓ September 18, 2014 – Special Meeting of the City Commission at 8:30 a.m.
- ✓ September 18, 2014 – Diversity Dinner – Clarion Inn at 6:30 p.m.
- ✓ September 19, 2014 – Multi-Cultural Summit – Garden City Community College starting at 8:00 a.m.
- ✓ September 20, 2014 – Fall Fest 2014
- ✓ September 20, 2014 – Chamber of Commerce Wine Tasting Event– 7:00 p.m. at the Clarion Inn
- ✓ September 28, 2014 – Governor Brownback’s Economic Summit on Animal Agriculture at St. Dominic Parish Center from 9:00 a.m. – 3:00 p.m.
- ✓ September 29, 2014 – KDOT Local Consult meeting in Garden City at the Clarion Inn at 9:00 a.m.
- ✓ September 30, 2014 – Town Hall meeting, TBA
- ✓ October 1, 2014 – Southwest Kansas Coalition meeting in Dodge City from 4:00 p.m. – 7:00 p.m.
- ✓ October 11-13, 2014 – League of Kansas Municipalities Annual Conference – Wichita, Kansas

**VIII. CONSIDERATION OF APPROPRIATION ORDINANCE.**

- A. Appropriation Ordinance No. 2371-2014A.

**IX. CONSIDERATION OF ORDINANCES AND RESOLUTIONS.**

- A. Ordinance No. \_\_\_\_\_ - 2014, an ordinance regulating traffic within the corporate limits of the City of Garden City, Kansas; incorporating by reference the Standard Traffic Ordinance for Kansas Cities, Edition of 2014, with certain omissions, additions, or changes; prescribing additional regulations; providing certain penalties; amending Code Section 86-2; repealing existing Code Section 86-2; all to the Code of Ordinances of the City of Garden City, Kansas.
- B. Ordinance No. \_\_\_\_\_ - 2014, an ordinance regulating public offenses within the corporate limits of the City of Garden City, Kansas; incorporating by reference the Uniform Public Offense Code for Kansas Cities, Edition of 2014, with certain omissions, additions or changes; amending Code Section 62-2; repealing existing Code Section 62-2; all to the Code of Ordinances of the City of Garden City, Kansas.
- C. Ordinance No. \_\_\_\_\_-2014, an ordinance making it unlawful to interfere with parental custody in the City of Garden City, Kansas; creating new Code Section 62-21; all to the Code of Ordinances of the City of Garden City, Kansas.
- D. Governing Body is asked to adopt the resolutions allowing the City of Garden City to participate in the Kansas Moderate Income Housing (MIH) Grant Program from the Kansas Housing Resources Corporation (KHRC) and to prioritize the applicants.

1. Resolution No. \_\_\_\_\_-2014, a resolution making certain findings and determinations giving authority to the City of Garden City, Kansas to partner with Samy's Development, LLC and apply for and participate in the Kansas Moderate Income Housing Program.
  2. Resolution No. \_\_\_\_\_ - 2014, a resolution making certain findings and determinations giving authority to the City of Garden City, Kansas to partner with Prairie Wind Homes of Kansas, LLC and apply for and participate in the Kansas Moderate Income Housing Program.
  3. Resolution No. \_\_\_\_\_ - 2014, a resolution making certain findings and determinations giving authority to the City of Garden City, Kansas to partner with CG Investments, LLC and apply for and participate in the Kansas Moderate Income Housing Program.
- E. Resolution No. \_\_\_\_\_ - 2014, a resolution authorizing the removal of motor vehicle nuisances from certain properties in the City of Garden City, Kansas, pursuant to Section 38-63 of the Code of Ordinances of the City of Garden City, Kansas. (225 Inge Avenue – white motor home)
- F. Resolution No. \_\_\_\_\_ - 2014, a resolution authorizing the removal of nuisance conditions from the property listed below in the City of Garden City, Kansas, pursuant to Section 38-139 of the Code of Ordinances of the City of Garden City, Kansas. (601 Howerton and 207 S. 4<sup>th</sup> Street)
- G. Governing Body is asked to rescind Resolution No. 2597-2014 and adopt a new and corrected resolution for the Community Health Advisory Board.
- H. Resolution No. \_\_\_\_\_-2014, a resolution providing for the creation, membership, structure and responsibilities of a Community Health Advisory Board to advise the Governing Body of the City of Garden City, Kansas, with regard to policy issues involving community health, especially as it relates to the built environment.

**X. OLD BUSINESS.**

- A. None at this writing.

**XI. NEW BUSINESS.**

A. ***Consent Agenda for approval consideration:*** (The items listed under this “consent agenda” are normally considered in a single motion and represent items of routine or prior authorization. Any member of the Governing Body may remove an item prior to the vote on the consent agenda for individual consideration.)

1. Governing Body consideration and approval of a 2014 Vegetation Mowing application from Mike Komlofske.
2. Governing Body consideration and approval of a plat for the Giardino Addition.

3. Governing Body consideration and approval of a commercial lease agreement for 112 W. Pine Street.
4. Governing Body consideration and approval of an interlocal agreement between the City of Garden City, Kansas and the City of Holcomb, Kansas for building code inspection and enforcement.
5. Governing Body consideration and approval of an interlocal agreement between the City of Garden City, Kansas and County of Finney, Kansas for building code inspection and enforcement.
6. Quit Claim Deed from Shirley M. Roop transferring Spaces 1 and 2, Lot 31, Zone I of Valley View Cemetery to the City of Garden City, Kansas.
7. Permission for Charles M. &/or Carol A. Barton to reserve Space 2, Lot 105, Zone J of Valley View Cemetery for the consideration of \$50.00 for a period of one year.
8. Licenses:

**(2014 New)**

- a) U Pump It #212 ..... Cereal Malt Beverage
- b) Coonrod & Associates Construction Co. Inc ..... Class A General
- c) Lance Rupp ..... Class C General
- d) McPherson Concrete Storage Systems, Inc. .... Class E-SOC Specialized Other
- e) Life Scapes ..... Class E-SOC Specialized Other

**(2014 Renewal)**

- f) Walmart #652..... Cereal Malt Beverage

- B. Staff requests Governing Body consideration of an Executive Session pursuant to K.S.A. 75-4319(b)(2) pertaining to consultation with an attorney for the body or agency which would be deemed privileged in the attorney-client relationship.

**XII. CITY COMMISSION REPORTS.**

A. Commissioner Doll

B. Commissioner Fankhauser

C. Commissioner Law

D. Mayor Cessna

E. Commissioner Dale

**XIII. ADJOURN.**

**THE REGULAR MEETING OF THE BOARD OF COMMISSIONERS**

City of Garden City  
August 19, 2014

The regular meeting of the Board of Commissioners of the City of Garden City was held at 1:00 p.m. at the City Administrative Center on Tuesday, August 19, 2014 with all members present. Commissioner Dale opened the meeting with the Pledge of Allegiance to the Flag and Invocation.

Commissioner Law moved to approve and authorize the Mayor to proclaim August 26, 2014 as Katherine Hart Day. Commissioner Dale seconded the motion. The vote was taken by yeas and nays and recorded as follows:

Cessna	Dale	Doll	Fankhauser	Law
Yea	Yea	Yea	Yea	Yea

Commissioner Law moved to approve and authorize the Mayor to proclaim November 1, 2014 as Extra Mile Day as requested by The Extra Mile America Foundation. Commissioner Fankhauser seconded the motion. The vote was taken by yeas and nays and recorded as follows:

Cessna	Dale	Doll	Fankhauser	Law
Yea	Yea	Yea	Yea	Yea

The American Institute of CPA’s honored Finance Director Melinda Hitz, CPA, CGMA, as the recipient of the Outstanding CPA in Government Impact Award. The award recognizes CPA’s working in federal, state and local governments who have contributed significantly to increased efficiency and effectiveness of government organization and to the growth and enhancement of the CPA.

The City received correspondence from Cox Communications regarding channel line-up changes.

The American Heart Association named the City of Garden City as a Gold Fit-Friendly Worksite.

The Governing Body discussed and asked staff to set October 1<sup>st</sup>, 2014 at 4:00 pm in Dodge City, Kansas for the annual meeting of the Southwest Kansas Coalition.

Staff provided several items of information for Governing Body review including the following: from Director of Aviation Powell the monthly enplanement and operations report, from Community Development Director Kentner the monthly building and code enforcement reports, from Finance Director Hitz the monthly financial report, from Fire Chief Shelton the monthly activity report, from Police Chief Hawkins the monthly activity report, from Public Works Director the City Link monthly report and the city projects monthly report, and from Zoo Director Newland the monthly zoo report.

Meetings of note:

- ✓ August 19 – 20, 2014 – Battle of the Badges Blood Drive at First United Methodist Church
- ✓ August 21, 2014 – Garden City Community College Student Job Fair
- ✓ August 24, 2014 – GCFD – MDA Boot Block, 9:30 a.m. – 3:00 p.m.
- ✓ August 23 – 24, 2014 – Tumbleweed Festival at Lee Richardson Zoo
- ✓ September 6, 2014 – A Wild Affair at Lee Richardson Zoo
- ✓ September 11 – 13, 2014 – Garden City Classic at Buffalo Dunes Golf Course
- ✓ September 13, 2014 – 88<sup>th</sup> Garden City Community Mexican Fiesta
- ✓ September 17, 2014 – The Mayor’s “State of the City” address at Chamber Breakfast

- ✓ September 18, 2014 – Special Meeting of the City Commission at 8:30 a.m.
- ✓ September 18, 2014 – Diversity Dinner – Clarion Inn
- ✓ September 19, 2014 – Multi-Cultural Summit – GCCC
- ✓ September 20, 2014 – Fall Fest 2014
- ✓ September 20, 2014 – Chamber of Commerce Wine Tasting Event– 7:00 p.m. at the Clarion Inn
- ✓ September 29, 2014 – KDOT Local Consult meeting in Garden City, TBA
- ✓ October 11-13, 2014 – League of Kansas Municipalities Annual Conference – Wichita, Kansas

Commissioner Law moved to approve Mayor Cessna, Commissioner Doll, Commissioner Law and City Clerk Hurtado as the voting delegates and City Manager Allen as the alternative voting delegate for the City of Garden City at the League of Kansas Municipalities Annual Conference. Commissioner Fankhauser seconded the motion. The vote was taken by yeas and nays and recorded as follows:

Cessna	Dale	Doll	Fankhauser	Law
Yea	Yea	Yea	Yea	Yea

Appropriation Ordinance No. 2370-2014A, “AN APPROPRIATION ORDINANCE MAKING CERTAIN APPROPRIATIONS FOR CERTAIN CLAIMS IN THE AMOUNT OF \$2,053,600.27,” was read and considered section by section. Commissioner Dale moved to approve and pass Appropriation Ordinance No. 2370-2014A. Commissioner Doll seconded the motion. The vote was taken by yeas and nays and recorded as follows:

Cessna	Dale	Doll	Fankhauser	Law
Yea	Yea	Yea	Yea	Yea

Ordinance No. 2662-2014, “AN ORDINANCE AUTHORIZING CONSUMPTION OF CEREAL MALT BEVERAGE AND ALCOHOLIC LIQUOR ON PUBLIC PROPERTY OWNED OR LEASED BY THE BOARD OF TRUSTEES OF GARDEN CITY COMMUNITY COLLEGE; AMENDING CODE SECTIONS 6- 35 AND 6-133; REPEALING IN THEIR ENTIRETY CURRENT CODE SECTIONS 6-35 AND 6-133; ALL TO THE CODE OF ORDINANCES OF THE CITY OF GARDEN CITY, KANSAS,” was read and considered section by section. Commissioner Fankhauser moved to approve Ordinance No. 2662-2014. Commissioner Dale seconded the motion. The vote was taken by yeas and nays and recorded as follows:

Cessna	Dale	Doll	Fankhauser	Law
Yea	Yea	Yea	Yea	Yea

Commissioner Fankhauser excused himself from the bench.

Resolution No. 2596-2014, “A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF GARDEN CITY, KANSAS DETERMINING THAT THE CITY IS CONSIDERING ESTABLISHING A RURAL HOUSING INCENTIVE DISTRICT WITHIN THE CITY AND ADOPTING A PLAN FOR THE DEVELOPMENT OF HOUSING AND PUBLIC FACILITIES IN SUCH PROPOSED DISTRICT; ESTABLISHING THE DATE AND TIME OF A PUBLIC HEARING ON SUCH MATTER, AND PROVIDING FOR THE GIVING OF NOTICE OF SUCH PUBLIC HEARING (Clarion Park Estates),” was read and considered section by section. Commissioner Fankhauser moved to approve Ordinance No. 2596-2014. Commissioner Dale seconded the motion. The vote was taken by yeas and nays and recorded as follows:

Cessna	Dale	Doll	Fankhauser	Law
Yea	Yea	Yea	Abstained	Yea

Commissioner Fankhauser returned to his place at the bench.

Resolution No. 2597-2014, "A RESOLUTION PROVIDING FOR THE CREATION, MEMBERSHIP, STRUCTURE AND RESPONSIBILITIES OF A COMMUNITY HEALTH ADVISORY BOARD TO ADVISE THE GOVERNING BODY OF THE CITY OF GARDEN CITY, KANSAS, WITH REGARD TO POLICY ISSUES INVOLVING COMMUNITY HEALTH, ESPECIALLY AS IT RELATES TO THE BUILT ENVIRONMENT," was read and considered section by section. Commissioner Doll moved to approve Ordinance No. 2597-2014. Commissioner Fankhauser seconded the motion. The vote was taken by yeas and nays and recorded as follows:

Cessna	Dale	Doll	Fankhauser	Law
Yea	Yea	Yea	Yea	Yea

Resolution No. 2598-2014, "A RESOLUTION PROVIDING FOR THE CREATION, MEMBERSHIP, STRUCTURE AND RESPONSIBILITIES OF A PUBLIC UTILITIES ADVISORY BOARD TO ADVISE THE GOVERNING BODY OF THE CITY OF GARDEN CITY, KANSAS, WITH REGARD TO UTILITY RATES, INVESTMENTS, INFRASTRUCTURE AND MAJOR UTILITY PROJECT ISSUES INVOLVING GARDEN CITY PUBLIC UTILITIES," was read and considered section by section. Commissioner Law moved to approve Ordinance No. 2598-2014. Commissioner Doll seconded the motion. The vote was taken by yeas and nays and recorded as follows:

Cessna	Dale	Doll	Fankhauser	Law
Yea	Yea	Yea	Yea	Yea

Bond Counsel Mary Carson has provided a resolution authorizing the 2014 General Obligation Bond sale for September 16th for Capital Improvement Projects and Special Assessments being levied this year. Financial Advisor Chuck Bouilly has provided the Preliminary Official Statement for Governing Body approval.

Resolution No. 2599-2014, "A RESOLUTION OF THE CITY OF GARDEN CITY, KANSAS, AUTHORIZING PUBLIC SALE OF THE CITY'S GENERAL OBLIGATION BONDS, SERIES B, 2014, IN AN ESTIMATED PRINCIPAL AMOUNT OF \$2,910,000.00; SETTING FORTH THE DETAILS OF THE PUBLIC SALE; AND PROVIDING FOR GIVING OF NOTICE THEREOF," was read and considered section by section. Commissioner Fankhauser moved to approve Ordinance No. 2599-2014. Commissioner Dale seconded the motion. The vote was taken by yeas and nays and recorded as follows:

Cessna	Dale	Doll	Fankhauser	Law
Yea	Yea	Yea	Yea	Yea

Bond Counsel Mary Carson, Financial Advisor Chuck Bouilly and Staff have been working on the Special Assessment process for the streetscape improvements for the McAllister Building renovation along Seventh Street and Laurel Street.

Commissioner Law moved to approve the statement of final costs of the construction of Seventh and Laurel Streetscape Improvements in the City, as authorized by Resolution No. 2537-2013. Commissioner Doll seconded the motion. The vote was taken by yeas and nays and recorded as follows:

Cessna	Dale	Doll	Fankhauser	Law
Yea	Yea	Yea	Yea	Yea

Commissioner Fankhauser moved to approve the proposed assessments for the improvements. Commissioner Law seconded the motion. The vote was taken by yeas and nays and recorded as follows:

Cessna	Dale	Doll	Fankhauser	Law
Yea	Yea	Yea	Yea	Yea

Commissioner Fankhauser moved to accept the waivers of notice and hearing on assessments and consent to levying assessments. Commissioner Doll seconded the motion. The vote was taken by yeas and nays and recorded as follows:

Cessna	Dale	Doll	Fankhauser	Law
Yea	Yea	Yea	Yea	Yea

Ordinance No. 2663-2014, "AN ORDINANCE OF THE CITY OF GARDEN CITY, KANSAS, LEVYING SPECIAL ASSESSMENT TAXES ON CERTAIN REAL PROPERTIES IN THE CITY TO PAY A PORTION OF THE COSTS OF INTERNAL IMPROVEMENTS BENEFITING SUCH REAL PROPERTIES; PROVIDING FOR THE GIVING OF NOTICE OF SAID SPECIAL ASSESSMENT TAXES BY PUBLICATION AND MAILING; AND PROVIDING FOR THE COLLECTION OF SAID SPECIAL ASSESSMENT TAXES (Seventh and Laurel Streetscape Improvements)," was read and considered section by section. Commissioner Dale moved to approve Ordinance No. 2662-2014. Commissioner Fankhauser seconded the motion. The vote was taken by yeas and nays and recorded as follows:

Cessna	Dale	Doll	Fankhauser	Law
Yea	Yea	Yea	Yea	Yea

Mayor Cessna moved to approve the semi-annual report for the CDBG Revolving Loan Fund from Great Plains Development, Inc. Commissioner Doll seconded the motion. The vote was taken by yeas and nays and recorded as follows:

Cessna	Dale	Doll	Fankhauser	Law
Yea	Yea	Yea	Yea	Yea

Commissioner Doll moved to approve and appoint Jeanne Winter to fill a four-year term that will end August 2018 on the Local Housing Authority Board. Commissioner Dale seconded the motion. The vote was taken by yeas and nays and recorded as follows:

Cessna	Dale	Doll	Fankhauser	Law
Yea	Yea	Yea	Yea	Yea

Commissioner Dale moved to approve the following:

1. Governing Body consideration and approval of a crossing guard agreement between the City of Garden City, Kansas and the Board of Education, Unified School District No. 457.
2. Governing Body consideration and approval of a law enforcement officer assignment agreement between the City of Garden City, Garden City Police Department and Unified School District No. 457.
3. Governing Body consideration and acceptance of utility easement from Bernard Chappel, Glen Woods Trust and RBC-LLC on Lot 2, Block 2, Chappel Heights First Addition.
4. KDOT has provided Supplemental Agreement # 1 to Agreement No. 29-13 to the City for the FY 2014 Geometric Improvement project, which is for reconstruction and widening on Kansas Avenue from Main Street to Third Street. The Supplement authorizes the project to be let and managed by the City. The Governing Body is asked to accept the agreement.
5. KDOT has approved our request to combine the 2014 and 2015 KLINK projects for reconstruction on Kansas Avenue from 400 feet

west of Center Street to Anderson Street. The Governing Body is asked to authorize the Mayor and City Clerk to execute the agreements.

6. Governing Body consideration and approval of bids received on July 29, 2014 for distribution transformers for the use in the Electric Division and to accept the bid from HD Supply Power Solutions and Stanion Wholesale Electric Company.
7. Governing Body consideration and approval of a contract extension for consulting services as outlined in an existing agreement between the Southwest Kansas Coalition (of which the City of Garden City is a member) and Pinegar, Smith & Associates, Inc.
8. Permission for Maria Graciela Molina to reserve Space 1, Lot 85, Zone J of Valley View Cemetery for the consideration of \$50.00 for the period of one year.

Commissioner Fankhauser seconded the motion. The vote was taken by yeas and nays and recorded as follows:

Cessna	Dale	Doll	Fankhauser	Law
Yea	Yea	Absent	Yea	Yea

Commissioner Law moved that the City Commission go into executive session pursuant to K.S.A. 75-4319(b)(2) for 10 minutes for the purpose of consultation with City legal counsel on matters which are privileged in the attorney/client relationship which if discussed in open session would waive that privilege and that the City Commission reconvene into open session in the City Commission Chambers at 1:49 p.m. with City Attorney Grisell, City Manager Allen and Public Utilities Director Muirhead present. Commissioner Law seconded the motion. The vote was taken by yeas and nays and recorded as follows:

Cessna	Dale	Doll	Fankhauser	Law
Yea	Yea	Absent	Yea	Yea

At the expiration of the designated time, and in open session, Mayor Cessna stated no action was taken.

At 2:00 p.m. Mayor Cessna opened the Public Hearing for the purpose of the Governing Body hearing questions, concerns and comments from the public with regard to the proposed Rural Housing Incentive District for Prairie View Acres Project.

Finney County Economic Development Executive Director Lona Duvall spoke on behalf of FCEDC and gave their support for the project.

There being no further comments from the public, Mayor Cessna closed the public hearing.

Mayor Cessna adjourned the meeting since there was no further business before the Governing Body.

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Roy Cessna, Mayor

ATTEST:

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Celyn N. Hurtado, City Clerk

### **City Commission Reports**

Commissioner Dale congratulated Finance Director Hitz on her Outstanding CPA in Government award and stated he was grateful to have her as the City's Finance Director. Commissioner encouraged everyone to attend the Tumbleweed Festival on August 22, 23 and 24, 2014.

Commissioner Doll congratulated Finance Director Hitz on her award. Commissioner Doll thanked Katherine Hart for her years of service at the Finnup Foundation and asked where would this community be without her dedication and love for this city. Commissioner Doll congratulated city employees for being named a Gold Fit-Friendly city.

Commissioner Fankhauser congratulated Finance Director Hitz on her Outstanding CPA in Government award. Commissioner Fankhauser thanked Katherine Hart for her service to this community. Commissioner Fankhauser encouraged everyone to donate at the Battle of the Badges Blood Drive on August 19 and 20, 2014.

Commissioner Law congratulated Finance Director Hitz and stated she does amazing work for the city and is just another example of the great employees the City has employed. Commissioner Law congratulated Katherine Hart on her retirement.

Mayor Cessna echoed the thoughts of the other Commissioners for Finance Director Hitz and Katherine Hart. Mayor Cessna stated it was good news to see the enplanements continue to rise and will probably hit the 26,000 mark. Mayor Cessna thanked city crews that installed the new sidewalk on Campus and stated it is getting used frequently. Mayor Cessna thanked city staff for all their work on the streets and sidewalks and citizens should be proud of the great city staff and community that we live in.

# Petitions

# PROCLAMATION

**WHEREAS,** On the night of September 15, 1810, Father Miguel Hidalgo y Costilla of Dolores in Guanajuato, Mexico, gave the signal for his people to rise up in arms and free themselves from Spain; and

**WHEREAS,** After a long and weary revolutionary struggle, Mexico was established as a free and independent nation in 1821; and

**WHEREAS,** United Mexican States has since grown in stature and importance to be one of the leading independent nations of the Western Hemisphere, adding the richness of its culture and heritage to Kansas through the state's many citizens of Mexican ancestry; and

**WHEREAS,** The celebration of freedom and independence is a tribute to the achievements which have made possible a way of life for the people as individuals in a free society; and

**WHEREAS,** We are proud to celebrate 88 years of the Community Mexican Fiesta celebration in Garden City which is a tradition that has provided cultural richness to our community; and

**WHEREAS,** Garden City residents who are of Hispanic heritage have had an opportunity to rejoice in celebrating and utilizing Hispanic American cultural traditions; and

**WHEREAS,** Hispanics have contributed their interests, dedication, and accomplishments in promoting the economic and social growth to Garden City.

**NOW, THEREFORE, BE IT RESOLVED,** that I, Roy Cessna, Mayor of the City of Garden City, Kansas, do hereby proclaim the Month of September 14<sup>th</sup> to October 14<sup>th</sup> 2014 as:

## HISPANIC HERITAGE MONTH

In Garden City, and urge all residents of the city to join in this observance.

**SIGNED AND SEALED** this 2<sup>nd</sup> day of September, 2014.

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Roy Cessna, Mayor

ATTEST:

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Celyn N. Hurtado, City Clerk

## PROCLAMATION

WHEREAS, the week of September 7, 2014, has been designated as “National Direct Support Professionals Recognition Week” in order to celebrate and recognize professionals who provide support to millions of individuals with intellectual and developmental disabilities; and

WHEREAS, recognizes the dedication and vital role of direct support professionals in enhancing the lives of individuals with disabilities of all ages; and

WHEREAS, family members, friends and the community at large all play a role in commending direct support professionals as integral in supporting the needs that reach beyond the capacities of millions of families and supporting the long- term support and services system in the United States; and

WHEREAS, the goals of this city properly give recognition to those who directly help people with disabilities gain full access to housing, employment and the recreation activities which help create productive and satisfying lives, and to live as independently as possible.

NOW, THEREFORE, I, Roy Cessna, Mayor of the City of Garden City, Kansas, do hereby proclaim the week of September 7, 2014 as

### **DIRECT SUPPORT PROFESSIONALS RECOGNITION WEEK**

in Garden City, Kansas and urge all citizens to observe the week with appropriate programs and activities. Furthermore, I encourage the citizens of Garden City to seek information from those organizations with expertise in matters concerning professionals who support individuals with intellectual and development disabilities.

SIGNED AND SEALED this 2<sup>ND</sup> day of September, 2014.

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Roy Cessna, Mayor

ATTEST:

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Celyn N. Hurtado, City Clerk

# Report of the City Manager



## Garden City Fire Department

P.O. Box 998  
302 N. 9<sup>th</sup>  
Garden City, KS 67846  
E-mail: [fire@garden-city.org](mailto:fire@garden-city.org)

Allen Shelton  
Fire Chief  
(620) 276-1140  
Fax: (620) 276-1142

### MEMO

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To: Matt Allen, City Manager /Garden City Commissioner's  
From: Allen Shelton, Fire Chief  
Date: August 26, 2014  
Re: Garden City Fire Department 2014 Annual MDA Boot Block Drive

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On Sunday, August 24, 2014, sixteen Garden City Firefighters and support personnel participated in our annual Boot Block for the Muscular Dystrophy Association.

This year's event was held from 9:00AM to 3:00PM with Firefighters positioned at the intersections of Main & Fulton, Kansas & Fleming and in front of both entrances of Wal-Mart Super Store.

Firefighters' collected \$7,207.32 in donations this year. Donations were up \$1,867.89 from the 2013 amount of \$5,339.43.

I am very proud of these Firefighters and sincerely appreciate their selfless donation of time and efforts by continuing their tradition of fundraising for the Muscular Dystrophy Association.

I also want to commend Battalion Chief James Morris for his organization skills used to plan and direct this year's MDA Boot Block Drive. These skills continue to make him a valuable asset to the Garden City Fire Department.

Department Firefighters and Personnel taking part in this year's MDA Boot Block Fund raising event were; Jon Irsik, Cory Rupp, Brett McQuitty, Joshua Woolsey, Mike Milligan, Andy Crittenden, Casey Harmon, Rick Woods Sean McEntee, Hunter Carson, Chris Law, Ron Peek,, Allen Shelton, Jim Morris, Ken Seirer, Cynthia Beesley.

# City of Garden City Public Works

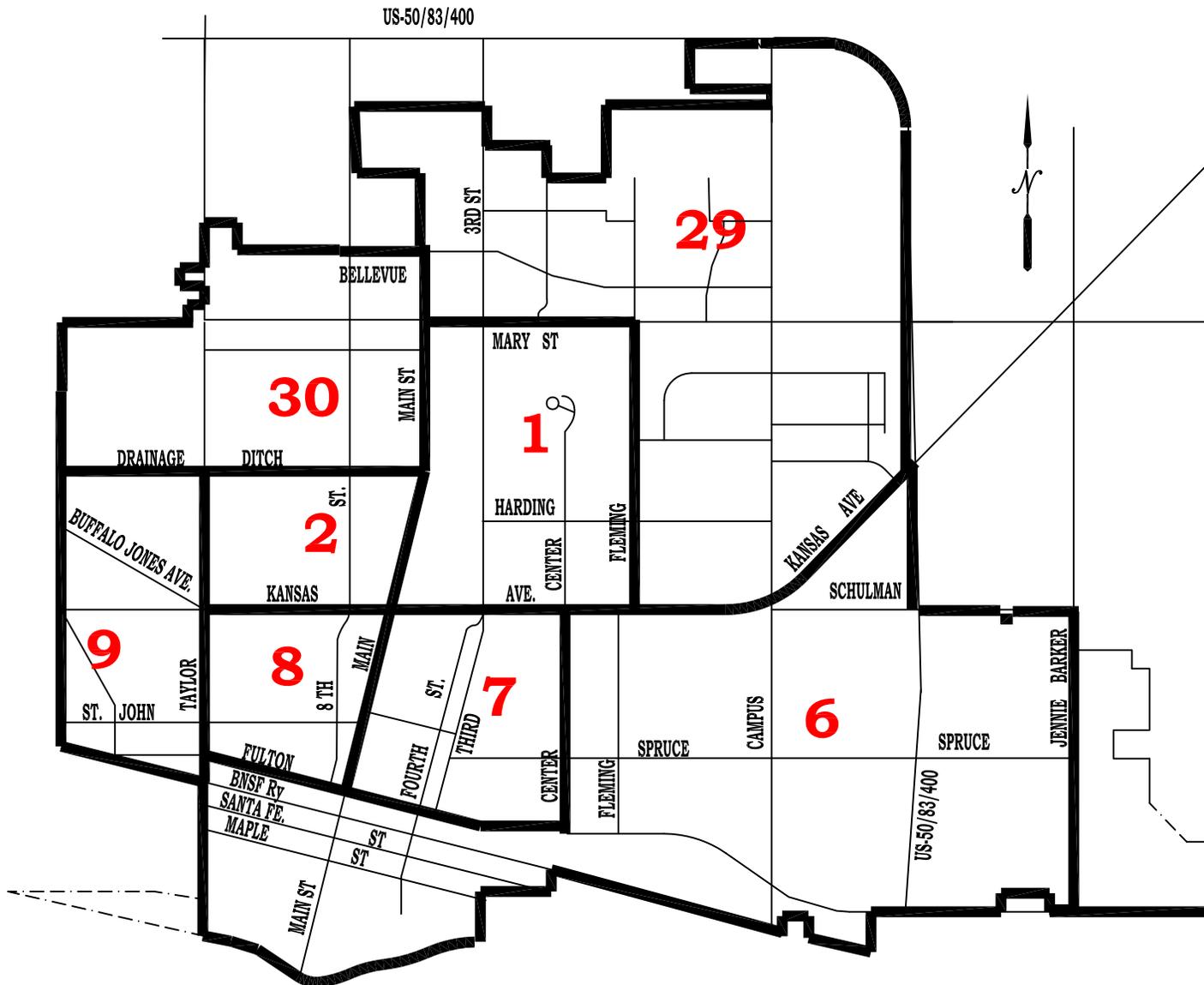
## 2014 Fall Clean-Up September 29 – October 10, 2014

### RULES:

1. Clean-up is for Residential Areas **ONLY**. (No Commercial).
2. **ALL ITEMS** to be picked up must be placed by the street curb, NO alley pick-ups.
3. **Please do not put your debris on the water meters.**
4. Because of landfill regulations, we ask homeowners to separate tree trimmings into one pile, old furniture and boxes into another, and old appliances into another.
5. **IMPORTANT! - We are unable to pick up Refrigerators or Air Conditioners** unless arrangements are made with the Street Department. The Street Department is not responsible for having the units decharged of all **Refrigerants**. A copy of the certification must be attached to each unit before collection.
6. We can pick up tree trimmings as long as they are no longer than **8 feet** in length.
7. **One truckload of tree branches/brush per home.**
8. Grass clippings and leaves are not permitted.
9. Liquid paints and petroleum products (oil, roofing tar, crack sealer, gas, diesel and etc) are not permitted.
10. Vehicle motors or batteries are not permitted.
11. Shingles or roofing materials are not permitted.
12. Building demolition debris is not permitted.
13. The cost of **all Tires and Rim Removal** will be charged back to the address the City crews collect them from.
14. Any waste created by a contractor for tree trimming, home remodeling, appliances, and etc. will not be accepted. The contractor is responsible for the removal service.

For those individuals who have been missed, please call 276-1270 before Friday, October 3rd<sup>h</sup> or Thursday, October 9<sup>th</sup>, to make arrangements to have your trash collected.

This is a great opportunity to clean up old furniture and junk in the alleys. The City of Garden City encourages all residents to take pride in the appearance of Garden City by participating in the 2014 Fall Clean-Up Program.



**GARDEN CITY**  
**PUBLIC WORKS DEPARTMENT**  
**2014 FALL CLEAN UP**  
**September 29 - October 10**  
**FOR MORE INFO**  
**CALL 276-1270**  
**CLEAN UP BOUNDARY LINE** 



# MEMORANDUM

**TO:** Matthew C. Allen, City Manager  
**FROM:** Emily Burns, Budget Analyst  
**DATE:** August 26, 2014  
**SUBJECT:** August 8, 2014 City Auction



The annual City of Garden City Auction was held on Friday, August 8, 2014. The following City Departments contributed equipment to the sale:

Buffalo Dunes Golf Course  
Garden City Cemetery  
Garden City Parks Department  
Garden City Police Department  
Garden City Regional Airport  
Garden City Street Department  
Lee Richardson Zoo

The total net sale for the City of Garden City is \$13,495.05. The Consignor Total report, Auction Buyer Summary, and Consignor Settlement printouts are attached for your review. Documentation provides descriptions of all equipment sold as well as City-owned vehicles and forfeiture property.

In the event additional information is needed, please contact me at extension 1359 or email.

A handwritten signature in black ink, appearing to read "Emily Burns".

Emily Burns  
Budget Analyst

# Staff Reports

**CONSIDERATION OF  
APPROPRIATION ORDINANCE**

# Ordinances & Resolutions



## MEMORANDUM

**TO:** Governing Body  
**FROM:** Matt Allen, City Manager  
**DATE:** August 29, 2014  
**RE:** STO and UPOC

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### CITY COMMISSION

ROY CESSNA,  
Mayor

MELVIN L. DALE

JANET A. DOLL

DAN FANKHAUSER

J. CHRISTOPHER LAW

MATTHEW C. ALLEN  
City Manager

MELINDA A. HITZ, CPA  
Finance Director

RANDALL D. GRISELL  
City Counselor

### Issue

The Governing Body is asked to consider and approve the 2014.

### Background

The League of Kansas Municipalities publishes annually a model Standard Traffic Ordinances and Uniform Public Offense Code. The 2014 versions of those two ordinances are presented for review and adoption. The City adopts by reference these two uniform ordinances each year for two purposes; first to manage the size of our Code, and the second purpose is to standardize basic traffic and safety laws around the State. Most changes from the 2013 versions are not material, rather a change in language. Those changes which are material, will be identified and described by legal counsel during the meeting.

### Alternatives

1. Adopt the 2014 STO and UPOC and proposed changes.
2. Do not approve the 2014 STO and UPOC and proposed changes.

### Recommendation

Staff recommends Alternative 1.

### Fiscal Note

None.

### CITY ADMINISTRATIVE

CENTER  
301 N. 8<sup>TH</sup>  
P.O. Box 998  
GARDEN CITY, KS  
67846-0998  
620.276.1160  
FAX 620.276.1169  
[www.garden-city.org](http://www.garden-city.org)

**ORDINANCE NO. \_\_\_\_\_ -2014**

AN ORDINANCE REGULATING TRAFFIC WITHIN THE CORPORATE LIMITS OF THE CITY OF GARDEN CITY, KANSAS; INCORPORATING BY REFERENCE THE STANDARD TRAFFIC ORDINANCE FOR KANSAS CITIES, EDITION OF 2014, WITH CERTAIN OMISSIONS, ADDITIONS, OR CHANGES; PRESCRIBING ADDITIONAL REGULATIONS; PROVIDING CERTAIN PENALTIES; AMENDING CODE SECTION 86-2; REPEALING EXISTING CODE SECTION 86-2; ALL TO THE CODE OF ORDINANCES OF THE CITY OF GARDEN CITY, KANSAS.

BE IT ORDAINED by the Governing Body of the City of Garden City, Kansas:

SECTION 1. That Section 86-2 of the Code of Ordinances of the City of Garden City, Kansas, is hereby amended as follows:

Section 86-2. Standard Traffic Ordinance.

(a) Incorporating Standard Traffic Ordinance. There is hereby incorporated by reference for the purpose of regulating traffic within the corporate limits of the City of Garden City, Kansas, that certain standard traffic ordinance known as the "Standard Traffic Ordinance for Kansas Cities," Edition of 2014, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, hereinafter referred to as Standard Traffic Ordinance, save and except such articles, sections, parts, or portions as are hereafter omitted, deleted, modified, added, or amended. No fewer than three copies of said Standard Traffic Ordinance shall be marked or stamped "Official Copy as Adopted by Ordinance No. 2665-2014," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this ordinance, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours. The police department, municipal judge, city attorney, city prosecutor, and all administrative departments of the city charged with enforcement of the ordinance shall be supplied, at the cost of the city, such number of official copies of such Standard Traffic Ordinance similarly marked, as may be deemed expedient. All references to the Standard Traffic Ordinance as adopted and incorporated into this Code shall be in a form designating section 86-2 followed in parenthesis followed by the section number of the Standard Traffic Ordinance, as incorporated. (For example, section 33 of the Standard Traffic Ordinance as incorporated shall be referred to as section 86-2(33).)

(b) Amendment. The following section of the Standard Traffic Ordinance is hereby amended to read as follows:

Section 30. Driving Under the Influence of Intoxicating Liquor or Drugs; Penalties.

(a) Driving under the influence is operating or attempting to operate any vehicle within this city while:

- (1) The alcohol concentration in the person's blood or breath as shown by any competent evidence, including other competent evidence, is .08 or more;
- (2) The alcohol concentration in the person's blood or breath, as measured within three (3) hours of the time of operating or attempting to operate a vehicle, is .08 or more;
- (3) Under the influence of alcohol to a degree that renders the person incapable of safely driving a vehicle;
- (4) Under the influence of any drug or combination of drugs to a degree that renders the person incapable of safely driving a vehicle;
- (5) Under the influence of a combination of alcohol and any drug or drugs to a degree that renders the person incapable of safely driving a vehicle; or

- (b) No person shall operate or attempt to operate any vehicle within this city if the person is a habitual user of any narcotic, hypnotic, somnifacient, or stimulating drug.
- (c) If a person is charged with a violation of this section involving drugs, the fact that the person is or has been entitled to use the drug under the laws of this state shall not constitute a defense against the charge.
- (d) Upon a first conviction of a violation of this section, a person shall be sentenced to not less than forty-eight (48) consecutive hours nor more than six (6) months imprisonment, or in the court's discretion one hundred (100) hours of public service, and fined \$1,000.00. The person convicted must serve at least forty-eight (48) consecutive hours imprisonment or one hundred (100) hours of public service either before or as a condition of any grant of probation or suspension, reduction of sentence or parole.
- (e) On a second conviction of a violation of this section, a person shall be sentenced to not less than ninety (90) days nor more than one (1) year's imprisonment and fined not less than \$1,500.00 or more than \$1,750.00. The person convicted must serve at least fourteen (14) consecutive days imprisonment before the person is granted probation, suspension, or reduction of sentence or parole or is otherwise released.
- (f) In addition, prior to sentencing for any conviction, the court shall order the person to participate in an alcohol and drug evaluation conducted by a provider in accordance with K.S.A. 8-1008, and amendments thereto. The person shall be required to follow any recommendation made by the provider after such evaluation, unless otherwise ordered by the court.
- (g) Any person convicted of violating this section who had one or more children under the age of fourteen (14) years in the vehicle at the time of the offense shall have such person's punishment enhanced by one (1) month of imprisonment. This imprisonment must be served consecutively to any other minimum mandatory penalty imposed for a violation of this section. Any enhanced penalty imposed shall not exceed the maximum sentence allowable by law.
- (h) The court may establish the terms and time for payment of any fines, fees, assessments, and costs imposed pursuant to this section. Any assessment and costs shall be required to be paid not later than ninety (90) days after imposed, and any remainder of the fine shall be paid prior to the final release of the defendant by the court.
- (i) In lieu of payment of a fine imposed pursuant to this section, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in an amount equal to \$5.00 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed not later than one (1) year after the fine is imposed, or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero (0) the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date.
- (j)
  - (1) Except as provided in paragraph (5), in addition to any other penalty which may be imposed upon a person convicted of a violation of this section, the court may order that the convicted person's motor vehicle or vehicles be impounded or immobilized for a period not to exceed one (1) year and that the convicted person pay all towing, impoundment, and storage fees or other immobilization costs.
  - (2) The court shall not order the impoundment or immobilization of a motor vehicle driven by a person convicted of a violation of this section if the motor vehicle had been stolen or converted at the time it was driven in violation of this section.

- (3) Prior to ordering the impoundment or immobilization of a motor vehicle or vehicles owned by a person convicted of a violation of this section, the court shall consider, but not be limited to, the following:
  - (A) Whether the impoundment or immobilization of the motor vehicle would result in the loss of employment by the convicted person or a member of such person's family; and
  - (B) Whether the ability of the convicted person or a member of such person's family to attend school or obtain medical care would be impaired.
- (4) Any personal property in a vehicle impounded or immobilized pursuant to this subsection may be retrieved prior to or during the period of such impoundment or immobilization.
- (5) As used in this subsection, the convicted person's motor vehicle or vehicles shall include any vehicle leased by such person. If the lease on the convicted person's motor vehicle subject to impoundment or immobilization expires in less than one (1) year from the date of the impoundment or immobilization, the time of impoundment or immobilization of such vehicle shall be the amount of the time remaining on the lease.
- (k) The court shall electronically report every conviction of a violation of this section and every diversion agreement entered into in lieu of further criminal proceedings or a complaint alleging a violation of this section to the division. Prior to sentencing under the provisions of this section, the court shall request and shall receive from the division a record of all prior convictions obtained against such person for any violations of any motor vehicle laws of this state.
- (l) For the purposes of determining whether a conviction is a first or second conviction in sentencing under this section:
  - (1) Conviction includes being convicted of a violation of this section or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of this section;
  - (2) conviction includes being convicted of a violation of a law of any state or an ordinance of any city, or resolution of any county, which prohibits the acts that this section prohibits or entering into a diversion agreement in lieu of further criminal proceedings in a case alleging a violation of such law, ordinance, or resolution;
  - (3) only convictions occurring on or after July 1, 2001, shall be taken into account when determining the sentence to be imposed for a first or second offender. Nothing in this provision shall be construed as preventing any court from considering any convictions or diversions occurring during the person's lifetime in determining the sentence to be imposed within the limits provided for a first or second offense;
  - (4) any convictions for a violation of the following sections occurring during a person's lifetime shall be taken into account:
    - (A) Refusing to submit to a test to determine the presence of alcohol or drugs, as provided in K.S.A. 8-1025, or Section 30.2.1;
    - (B) driving a commercial motor vehicle under the influence, K.S.A. 8-2,144, and amendments thereto, or Section 30.1;

- (C) operating a vessel under the influence of alcohol or drugs, K.S.A. 32-1131, and amendments thereto;
  - (D) involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or subsection (a)(3) of K.S.A. Supp. 21-5405, and amendments thereto;
  - (E) aggravated battery, as described in subsection (b)(3) of K.S.A. Supp. 21-5413, and amendments thereto; and
  - (F) aggravated vehicular homicide, K.S.A. 21-3405a, prior to its repeal, or vehicular battery, K.S.A. 21-3405b, prior to its repeal, if the crime was committed while committing a violation of K.S.A. 8-1567, and amendments thereto;
- (5) receiving punishment under the uniform code of military justice of Kansas code of military justice for an act which was committed on a military reservation and which would constitute a crime described in subsection l(2) or l(4) if committed off a military reservation in this state;
  - (6) multiple convictions of any crime described in subsection l(2) or l(4) arising from the same arrest shall only be counted as one conviction;
  - (7) it is irrelevant whether an offense occurred before or after conviction for a previous offense; and
  - (8) a person may enter into a diversion agreement in lieu of further criminal proceedings for a violation of this section, and amendments thereto, only once during the person's lifetime.
- (m) Upon conviction of a person of a violation of this section, the division, upon receiving a report of conviction, shall suspend, restrict or suspend and restrict the person's driving privileges as provided by K.S.A. 8-1014, and amendments thereto.
  - (n) Upon conviction of a person of a violation of this section, the court may order the convicted person to pay restitution to any victim who suffered loss due to the violation for which the person was convicted.
  - (o) No plea bargaining agreement shall be entered into nor shall any judge approve a plea bargaining agreement entered into for the purpose of permitting a person charged with a violation of this section to avoid the mandatory penalties established by this section. For the purpose of this subsection, entering into a diversion agreement pursuant to K.S.A. 12-4413 et seq., and amendments thereto, shall not constitute plea bargaining.
  - (p) The alternatives set out in subsections (a)(1), (a)(2), and (a)(3) of this section may be pleaded in the alternative, and the city may, but shall not be required to, elect one or two of the three prior to submission of the case to the fact finder.
  - (q) For the purpose of this section:
    - (1) Alcohol Concentration means the number of grams of alcohol per 100 milliliters of blood or per 210 liters of breath.
    - (2) Drug includes toxic vapors as such term is defined in Section 1.

(3) Imprisonment shall include any restrained environment in which the court and law enforcement agency intend to retain custody and control of a defendant and such environment has been approved by the governing body of the city.

(r) Upon the filing of a complaint, citation, or notice to appear alleging a person has violated the acts prohibited by this section, and prior to conviction thereof, a city attorney shall request and shall receive from the:

(1) Division a record of all prior of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state; and

(2) Kansas Bureau of Investigation central repository all criminal history record information concerning such person.

(c) Amendment. The following section of the Standard Traffic Ordinance is hereby amended to read as follows:

Section 30.1. Driving Commercial Motor Vehicle Under the Influence of Intoxicating Liquor or Drugs; Penalties.

(a) Driving a commercial motor vehicle under the influence is operating or attempting to operate any commercial motor vehicle within this city while:

(1) The alcohol concentration in the person's blood or breath as shown by any competent evidence, including other competent evidence is .04 or more;

(2) The alcohol concentration in the person's blood or breath, as measured within three (3) hours of the time of operating or attempting to operate a vehicle, is .04 or more;

(3) Under the influence of alcohol to a degree that renders the person incapable of safely driving a vehicle;

(4) Under the influence of any drug or combination of drugs to a degree that renders the person incapable of safely driving a vehicle;

(5) Under the influence of a combination of alcohol and any drug or drugs to a degree that renders the person incapable of safely driving a vehicle;

(6) Committing a violation of subsection (a) of Section 30 of this ordinance; or

(b) No person shall operate or attempt to operate any vehicle within this city if the person is a habitual user of any narcotic, hypnotic, somnifacient, or stimulating drug.

(c) If a person is charged with a violation of this section involving drugs, the fact that the person is or has been entitled to use the drug under the laws of this state shall not constitute a defense against the charge.

(d) Upon a first conviction of a violation of this section, a person shall be sentenced to not less than forty-eight (48) consecutive hours nor more than six (6) months imprisonment, or in the court's discretion one hundred (100) hours of public service, and fined \$1,000.00. The person convicted must serve at least forty-eight (48) consecutive hours imprisonment or one hundred (100) hours of public service either before or as a condition of any grant of probation or suspension, reduction of sentence or parole.

- (e) On a second conviction of a violation of this section, a person shall be sentenced to not less than ninety (90) days nor more than one (1) year's imprisonment and fined not less than \$1,500.00 or more than \$1,750.00. The person convicted must serve at least fourteen (14) consecutive days imprisonment before the person is granted probation, suspension, or reduction of sentence or parole or is otherwise released.
- (f) In addition, prior to sentencing for any conviction, the court shall order the person to participate in an alcohol and drug evaluation conducted by a provider in accordance with K.S.A. 8-1008, and amendments thereto. The person shall be required to follow any recommendation made by the provider after such evaluation, unless otherwise ordered by the court.
- (g) Any person convicted of violating this section who had one or more children under the age of fourteen (14) years in the vehicle at the time of the offense shall have such person's punishment enhanced by one (1) month of imprisonment. This imprisonment must be served consecutively to any other minimum mandatory penalty imposed for a violation of this section. Any enhanced penalty imposed shall not exceed the maximum sentence allowable by law.
- (h) The court may establish the terms and time for payment of any fines, fees, assessments, and costs imposed pursuant to this section. Any assessment and costs shall be required to be paid not later than ninety (90) days after imposed, and any remainder of the fine shall be paid prior to the final release of the defendant by the court.
- (i) In lieu of payment of a fine imposed pursuant to this section, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in an amount equal to \$5.00 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed not later than one (1) year after the fine is imposed, or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero (0) the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date.
- (j) The court shall electronically report every conviction of a violation of this section and every diversion agreement entered into in lieu of further criminal proceedings or a complaint alleging a violation of this section to the division. Prior to sentencing under the provisions of this section, the court shall request and shall receive from the:
  - (1) Division a record of all prior convictions obtained against such person for any violations of any motor vehicle laws of this state; and
  - (2) Kansas Bureau of Investigation central repository all criminal history record information concerning such person.
- (k) For the purposes of determining whether a conviction is a first or second conviction in sentencing under this section:
  - (1) Conviction includes being convicted of a violation of a law of any state or an ordinance of any city, or resolution of any county, which prohibits the acts that this section prohibits, or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging any such violations;
  - (2) only convictions or diversions on or after July 1, 2001, shall be taken into account when determining the sentence to be imposed for a first or second offender;

- (3) any convictions for a violation of the following sections occurring during a person's lifetime shall be taken into account:
- (A) This section or K.S.A. 8-2,144, and amendments thereto;
  - (B) refusing to submit to a test to determine the presence of alcohol or drugs, as provided in K.S.A. 8-1025, or Section 30.2.1;
  - (C) operating a vessel under the influence of alcohol or drugs, K.S.A. 32-1131, and amendments thereto;
  - (D) involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or subsection (a)(3) of K.S.A. Supp. 21-5405, and amendments thereto;
  - (E) aggravated battery, as described in subsection (b)(3) of K.S.A. Supp. 21-5413, and amendments thereto; and
  - (F) aggravated vehicular homicide, K.S.A. 21-3405a, prior to its repeal, or vehicular battery, K.S.A. 21-3405b, prior to its repeal, if the crime was committed while committing a violation of K.S.A. 8-1567, and amendments thereto;
- (4) receiving punishment under the uniform code of military justice or Kansas code of military justice for an act which was committed on a military reservation and which would constitute a crime described in subsection k(1) or k(3) if committed off a military reservation in this state;
- (5) it is irrelevant whether an offense occurred before or after conviction for a previous offense; and
- (6) multiple convictions of any crime described in subsection k(1) or k(3) arising from the same arrest shall only be counted as one conviction.
- (l) Upon conviction of a person of a violation of this section, the division, upon receiving a report of conviction, shall suspend, restrict or suspend and restrict the person's driving privileges as provided by K.S.A. 8-1014, and amendments thereto.
- (m) Upon conviction of a person of a violation of this section, the court may order the convicted person to pay restitution to any victim who suffered loss due to the violation for which the person was convicted.
- (n) No plea bargaining agreement shall be entered into nor shall any judge approve a plea bargaining agreement entered into for the purpose of permitting a person charged with a violation of this section to avoid the mandatory penalties established by this section. For the purpose of this subsection, entering into a diversion agreement pursuant to K.S.A. 12-4413 et seq., and amendments thereto, shall not constitute plea bargaining.
- (o) The alternatives set out in subsections (a)(1), (a)(2), and (a)(3) of this section may be pleaded in the alternative, and the city may, but shall not be required to, elect one or two of the three prior to submission of the case to the fact finder.
- (p) For the purpose of this section:
- (1) Alcohol Concentration means the number of grams of alcohol per 100 milliliters of blood or per 210 liters of breath.

- (2) Drug includes toxic vapors as such term is defined in Section 1.
- (3) Imprisonment shall include any restrained environment in which the court and law enforcement agency intend to retain custody and control of a defendant and such environment has been approved by the governing body of the city.

(q) Upon the filing of a complaint, citation, or notice to appear alleging a person has violated the acts prohibited by this section, and prior to conviction thereof, a city attorney shall request and shall receive from the:

- (1) Division a record of all prior of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state; and
- (2) Kansas Bureau of Investigation central repository all criminal history record information concerning such person.

(d) Amendment. The following section of the Standard Traffic Ordinance is hereby amended to read as follows:

Section 30.3. Ignition Interlock Devices; Tampering.

(a) No person shall:

- (1) Tamper with an ignition interlock device for the purpose of circumventing it or rendering it inaccurate or inoperative;
- (2) Request or solicit another to blow into an ignition interlock device, or start a motor vehicle equipped with such device, for the purpose of providing an operable motor vehicle to a person whose driving privileges have been restricted to driving a motor vehicle equipped with such device;
- (3) Blow into or start a motor vehicle equipped with an ignition interlock device for the purpose of providing an operable motor vehicle to a person whose driving privileges have been restricted to driving a motor vehicle equipped with such device; or
- (4) Operate a vehicle not equipped with an ignition interlock device while such person's driving privileges have been restricted to driving a motor vehicle equipped with such device.

(b) Violation of this section shall be punished by a fine of not more than \$2,500 or by imprisonment for not more than one (1) year or by both such fine and imprisonment.

(c) A person convicted of a violation of this section shall serve at least thirty (30) consecutive days' imprisonment before the person is granted probation, suspension, or reduction of sentence or parole or is otherwise released, and be fined at least \$500.

(d) In addition to any other penalties provided by law:

- (1) (A) On a first conviction of a violation of subsection (a)(1) or (a)(2), the division shall extend the ignition interlock restriction period on the person's driving privileges for an additional 90 days; and
- (B) On a second or subsequent conviction of a violation of subsection (a)(1) or (a)(2), the division shall restart the original ignition interlock restriction period on the person's driving privileges; and

- (2) on a conviction of a violation of subsection (a)(4), the division shall restart the original ignition interlock restriction period on the person's driving privileges.

(e) Amendment. The following section of the Standard Traffic Ordinance is hereby amended to read as follows:

Section 33. Maximum Speed Limits.

- (a) Except when a special hazard exists that requires lower speed for compliance with Section 32, the limits specified in this section or established as hereinafter authorized shall be maximum lawful speeds, and no person shall drive a vehicle at speed in excess of such maximum limits:
  - (1) In any central business district or school zone unless otherwise posted, 20 mph.
  - (2) In any residence or urban district unless otherwise posted, 30 mph.
  - (3) In any park, 20 mph.

The maximum speed limit established by or pursuant to this section shall be of force and effect regardless of whether signs are posted giving notice thereof and notwithstanding any signs giving notice of maximum speed limit in excess thereof; and any sign giving notice of a maximum speed limit in excess of the limits established by or pursuant to this section shall not be of any force or effect.

- (b) Whenever any appropriate sign shall be placed by lawful authority along any street or parking or marked on any curb, or otherwise giving notice of any prohibited or special use of the street or highway adjacent thereto or limiting the speed of vehicles in such zones or controlling the use thereof, it shall be unlawful for any person to refuse or fail to comply with such signs or directions.
- (c) The maximum speed limits in this section or as may otherwise be established may be altered as authorized by K.S.A. 8-1560, and amendments thereto.

(f) Amendment. The following section of the Standard Traffic Ordinance is hereby amended to read as follows:

Section 85. Stopping, Standing or Parking Prohibited in Specified Places.

Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic-control device, no person shall:

- (a) Stop, stand or park a vehicle:
  - (1) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
  - (2) On a sidewalk;
  - (3) Within an intersection;
  - (4) On a crosswalk;
  - (5) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings;

- (6) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;
- (7) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;
- (8) On any railroad tracks;
- (9) On any controlled-access highway;
- (10) In the area between roadways of a divided highway, including crossovers;
- (11) At any place where official signs prohibit stopping; or
- (12) Within any no parking area designated by a curb marked yellow.

(b) Stand or park a vehicle, whether occupied or not except momentarily to pick up or discharge a passenger or passengers:

- (1) In front of a public or private driveway;
- (2) Within 15 feet of a fire hydrant;
- (3) Within 20 feet of a crosswalk at an intersection;
- (4) Within 30 feet upon the approach to any flashing signal, stop sign or traffic-control signal located at the side of a roadway;
- (5) Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance, when properly sign-posted; or
- (6) At any place when official signs prohibit standing.

(c) Park a vehicle, whether occupied or not, except temporarily for the purpose of, and while actually engaged in, loading or unloading property or passengers:

- (1) Within 50 feet of the nearest rail of a railroad crossing; and
- (2) At any place where official signs prohibit parking.

(d) Move a vehicle not lawfully under his control into any such prohibited area or away from a curb such a distance as is unlawful.

(e) Stand or park a vehicle in areas designated as fire lanes upon public or private property. (K.S.A. 8-1571)

(g) Amendment. The following section of the Standard Traffic Ordinance is hereby amended to read as follows:

Section 106. Transportation of Alcoholic Beverage.

(a) No person shall transport in any vehicle upon a highway or street any alcoholic beverage unless such beverage is:

- (1) In the original unopened package or container, the seal of which has not been broken and from which the original cap, cork or other means of closure has not been removed;
  - (2) (A) In the locked rear trunk or rear compartment, or any locked outside compartment which is not accessible to any person in the vehicle while it is in motion; or  
  
(B) if a motor vehicle is not equipped with a trunk, behind the last upright seat or in an area not normally occupied by the driver or a passenger; or
  - (3) In the exclusive possession of a passenger in a vehicle which is a recreational vehicle or a bus, who is not in the driving compartment of such vehicle or who is in a portion of such vehicle from which the driver is not directly accessible.
- (b) A first conviction of a violation of this section is punishable by a fine of not more than \$200 or by imprisonment for not more than six (6) months, or both.
  - (c) Upon a second conviction of a violation of this section, a person shall be fined not less than \$400. A person may also be sentenced to a term of imprisonment of not more than six (6) months.
  - (d) Upon a third or subsequent conviction of a violation of this section, a person shall be fined not less than \$600. A person may also be sentenced to a term of imprisonment of not more than six (6) months.
  - (e) Except as provided in subsection (g) upon conviction or adjudication of a second or subsequent violation of this section, the judge, in addition to any other penalty or disposition ordered pursuant to law, shall suspend the person's driver's license or privilege to operate a motor vehicle on the streets and highways of this state for one year.
  - (f) Upon suspension of a license pursuant to this section, the court shall require the person to surrender the license to the court, which shall transmit the license to the division of motor vehicles of the department of revenue, to be retained until the period of suspension expires. At that time, the licensee may apply to the division for return of the license. If the license has expired, the person may apply for a new license, which shall be issued promptly upon payment of the proper fee and satisfaction of other conditions established by law for obtaining a license unless another suspension or revocation of the person's privilege to operate a motor vehicle is in effect.
  - (g) In lieu of suspending the driver's license or privilege to operate a motor vehicle on the highways of this state of any person convicted of violating this section, as provided in subsection (e), the judge of the court in which such person was convicted may enter an order which places conditions on such person's privilege of operating a motor vehicle on the highways of this state, a certified copy of which such person shall be required to carry any time such person is operating a motor vehicle on the highways of this state. Any such order shall prescribe the duration of the conditions imposed, which in no event shall be for a period of more than one year for a second violation.

Upon entering an order restricting a person's license hereunder, the judge shall require such person to surrender such person's driver's license to the judge who shall cause it to be transmitted to the division of vehicles, together with a copy of the order. Upon receipt thereof, the division of vehicles shall issue without charge a driver's license which shall indicate on its face that conditions have been imposed on such person's privilege of operating a motor vehicle and that a certified copy of the order imposing such conditions is required to be carried by the person for whom the license was issued any time such person is operating a motor vehicle on the highways of this state. If the person convicted is a nonresident, the judge shall cause a copy of the order to be transmitted to the division and the division shall forward a copy of it to the motor vehicle administrator, of such

person's state of residence. Such judge shall furnish to a person whose driver's license has had conditions imposed on it under this section a copy of the order, which shall be recognized as a valid Kansas driver's license until such time as the division shall issue the restricted license provided for in this section.

Upon expiration of the period of time for which conditions are imposed pursuant to this subsection, the licensee may apply to the division for the return of the license previously surrendered by such licensee. In the event such license has expired, such person may apply to the division for a new license, which shall be issued immediately by the division upon payment of the proper fee and satisfaction of the other conditions established by law, unless such person's privilege to operate a motor vehicle on the highways of this state has been suspended or revoked prior thereto. If any person shall violate any of the conditions imposed under this subsection, such person's driver's license or privilege to operate a motor vehicle on the highways of this state shall be revoked for a period of not less than 60 days nor more than one year by the judge of the court in which such person is convicted of violating such conditions.

- (h) It shall be an affirmative defense to any prosecution under this section than an occupant of the vehicle other than the defendant was in exclusive possession of the alcoholic beverage.
- (i) The court shall report to the division every conviction of a violation of this section. Prior to sentencing under the provisions of this section, the court shall request and shall receive from the division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state.
- (j) For the purpose of determining whether a conviction is a first, second or subsequent conviction in sentencing under this section:
  - (1) **Conviction** includes being convicted of a violation of an ordinance of any city, or resolution of any county, which prohibits the acts that K.S.A. 8-1599, as amended, prohibits;
  - (2) Only convictions occurring in the immediately preceding five years shall be taken into account, but the court may consider other prior convictions in determining the sentence to be imposed within the limits provided for a first, second or subsequent offender, whichever is applicable; and
  - (3) It is irrelevant whether an offense occurred before or after conviction for a previous offense. (K.S.A. 8-1599)

- (h) Amendment. The following section of the Standard Traffic Ordinance is hereby amended to read as follows:

Section 107. Unattended Motor Vehicle; Ignition; Key and Brakes.

- (a) No person driving or in charge of a motor vehicle shall permit it to stand unattended on any street or highway, or upon the premises of any childcare facility, as defined by K.S.A. 65-503, or any family day care home, as defined by K.S.A. 65-517, without first stopping the engine, locking the ignition, removing the key from the ignition and effectively setting the brake thereon and, when standing upon any grade, turning the front wheels to the curb or side of the highway.
- (b) For the purpose of this section, unattended shall not be construed to mean a motor vehicle with an engine that has been activated by a remote starter system, when the motor vehicle is locked and when the ignition keys are not in the motor vehicle.

- (i) Amendment. The following section of the Standard Traffic Ordinance is hereby amended to read as follows:

Section 118. Driving Through or On Private or Public Property to Avoid Traffic Control Devices.

No person shall drive through any public or private property adjacent to any street intersection to avoid any official traffic control device or short cut from one street to another.

- (j) Amendment. The following section of the Standard Traffic Ordinance is hereby amended to read as follows:

Section 147. Tail Lamps.

- (a) Every motor vehicle, trailer, semi-trailer and pole trailer, and any other vehicle which is being drawn at the end of a combination of vehicles, shall be equipped with at least two (2) tail lamps mounted on the rear, which, when lighted as required in Section 144, shall emit a red light plainly visible from a distance of 1,000 feet to the rear, except that passenger cars manufactured or assembled prior to July 1, 1959, shall have at least one (1) tail lamp. On a combination of vehicles, only the tail lamps on the rearmost vehicle need actually be seen from the distance specified. On vehicles equipped with more than one (1) tail lamp, the lamps shall be mounted on the same level and as widely spaced laterally as practicable.
- (b) Every tail lamp upon every vehicle shall be located at a height of not more than 72 inches or less than 15 inches.
- (c) Either a tail lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration plate and render it clearly legible from a distance of fifty (50) feet to the rear. Any tail lamp or tail lamps, together with any separate lamp for illuminating the rear registration plate, shall be so wired as to be lighted whenever head lamps or auxiliary driving lamps are lighted.

- (k) Amendment. The following section of the Standard Traffic Ordinance is hereby amended to read as follows:

Section 182. Child Passenger Safety Restraining System.

- (a) Every driver who transports a child under the age of fourteen (14) years in a passenger car on a highway shall provide for the protection of such child by properly using:
  - (1) For a child under the age of four (4) years a child passenger safety restraining system that meets or exceeds the standards and specifications contained in federal motor vehicle safety standard no. 213;
  - (2) For a child four (4) years of age, but under the age of eight (8) years and who weighs less than 80 pounds or is less than 4 feet 9 inches in height, an appropriate child passenger safety restraining system that meets or exceeds the standards and specifications contained in federal motor vehicle safety standard no. 213; or
  - (3) For a child eight (8) years of age but under the age of fourteen (14) years or who weighs more than 80 pounds or is more than 4 feet 9 inches in height, a safety belt manufactured in compliance with federal motor vehicle safety standard no. 208.
- (b) If the number of children subject to the requirements of subsection (a) exceeds the number of passenger security locations available for use by children affected by such requirements, and all of these security locations are in use by children, then there is not a violation of this section.
- (c) If a security location only has a lap safety belt available, the provisions of subsection (a)(2) shall not apply and the child shall be secured in accordance with the provisions of subsection (a)(3).

- (d) It shall be unlawful for any driver to violate the provisions of subsection (a) and upon conviction such driver shall be punished by a fine of \$60. The failure to provide a child safety restraining system or safety belt for more than one (1) child in the same passenger car at the same time shall be treated as a single violation. Any conviction under the provisions of this subsection shall not be construed as a moving traffic violation for the purposes of K.S.A. 8-255, and amendments thereto.
- (e) Ten dollars of the \$60 fine provided for in subsection (d), and court costs, shall be waived if the driver convicted of violating subsection (a)(1) or (a)(2) provides proof to the court that such driver has purchased or acquired the appropriate and approved child passenger safety restraining system. At the time of issuing the citation for a violation of subsection (a)(1) or (a)(2), the law enforcement officer shall notify the driver of the waiver provisions of this subsection.
- (f) No driver charged with violating the provisions of this section shall be convicted if such driver produces in the office of the arresting officer or in court proof that the child was fourteen (14) years of age or older at the time the violation was alleged to have occurred.
- (g) Evidence of failure to secure a child in a child passenger safety restraining system or a safety belt under the provisions of this section shall not be admissible in any action for the purpose of determining any aspect of comparative negligence or mitigation of damages.
- (h) As used in this section passenger car means a motor vehicle, manufactured or assembled after January 1, 1968, or a motor vehicle manufactured or assembled prior to 1968 which was manufactured or assembled with safety belts, with motive power designed for carrying ten (10) passengers or fewer, including vans, but does not include a motorcycle or a motor-driven cycle, a trailer or a vehicle constructed either on a truck chassis registered for a gross weight of more than 12,000 pounds or a farm truck registered for a gross weight of more than 16,000 pounds.
- (l) Amendment. The following section of the Standard Traffic Ordinance is hereby amended to read as follows:

Section 192. Driver's License.

- (a) No person, except those expressly exempted, shall drive or operate any motor vehicle or motorized bicycle upon any highway in this city unless such person has a valid driver's license. Violation of this section is punishable by a fine of not more than \$1,000 or by imprisonment for not more than six (6) months or by both such fine and imprisonment.
- (b) On a second conviction of a violation of this section, a person must serve at least five (5) consecutive days' imprisonment before the person is granted probation, suspension, or reduction of sentence or parole or is otherwise released, and be fined at least \$300.
- (c) On a third conviction of a violation of this section, a person must serve at least thirty (30) consecutive days' imprisonment before the person is granted probation, suspension, or reduction of sentence or parole or is otherwise released, and be fined at least \$500.
- (d) On a fourth conviction of a violation of this section, a person must serve at least sixty (60) consecutive days' imprisonment before the person is granted probation, suspension, or reduction of sentence or parole or is otherwise released, and be fined at least \$700.
- (e) On a fifth conviction of a violation of this section, a person must serve at least ninety (90) consecutive days' imprisonment before the person is granted probation, suspension, or reduction of sentence or parole or is otherwise released, and **be fined \$1000.**

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(f) On a sixth or subsequent conviction of a violation of this section, a person must serve at least one hundred twenty (120) consecutive days' imprisonment before the person is granted probation, suspension, or reduction of sentence or parole or is otherwise released, and **be fined \$1,000.**

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(g) For the purposes of determining whether a conviction is a first, second, third, fourth, fifth, sixth or subsequent conviction in sentencing under this section, "conviction" includes a conviction of a violation of any ordinance of any city, or resolution of any county, or a law of any state which is in substantial conformity with this section. It is irrelevant whether an offense occurred before or after conviction for a previous offense.

(m) Amendment. The following section of the Standard Traffic Ordinance is hereby amended to read as follows:

Section 194. Driving While License Canceled Suspended, or Revoked; Penalty.

(a) (1) Any person who drives a motor vehicle on any street or highway at a time when such person's privilege so to do is canceled, suspended, or revoked, or while such person's privilege to obtain a driver's license is suspended or revoked, shall upon a first conviction be punished by imprisonment for not more than six (6) months or fined not to exceed \$1,000, or both such fine and imprisonment. On a second or subsequent conviction of a violation of this section, such person shall be punished by imprisonment for not more than one (1) year or fined not to exceed \$2,500, or both such fine and imprisonment.

(2) No person shall be convicted under this section if such person was entitled at the time of arrest under K.S.A. 8-257 and amendments thereto, to the return of such person's driver's license.

(3) Except as otherwise provided in this section, every person convicted under this section shall be sentenced to at least five (5) days' imprisonment and fined at least \$200.

(4) Except as otherwise provided by subsection (g), if a person (A) is convicted of a violation of this section, committed while the person's privilege to drive was suspended or revoked for a violation of Section 30, K.S.A. 8-2,144, K.S.A. 8-1567 or K.S.A. 8-1025, and amendments thereto, or any ordinance of any city, or resolution of any county, or a law of another state, which ordinance or law prohibits the acts prohibited by Section 30, K.S.A. 8-2,144, K.S.A. 8-1567 or K.S.A. 8-1025, and amendments thereto; and (B) is or has been also convicted of a violation of Section 30, K.S.A. 8-2,144, K.S.A. 8-1567 or K.S.A. 8-1025, and amendments thereto, or any ordinance of any city, or resolution of any county, or a law of another state, which ordinance or law prohibits the acts prohibited by Section 30, K.S.A. 8-2,144, K.S.A. 8-1567 or K.S.A. 8-1025, and amendments thereto, committed while the person's privilege to drive was so suspended or revoked, the person shall not be eligible for suspension of sentence, probation or parole until the person has served at least ninety (90) days' imprisonment, and any fine imposed on such person shall be in addition to such a term of imprisonment.

(b) Upon a second conviction of a violation of this section, a person must serve at least five (5) consecutive days' imprisonment before the person is granted probation, suspension, or reduction of sentence or parole or is otherwise released, and be fined at least \$300.

(c) On the third conviction of a violation of this section, a person must serve at least thirty (30) consecutive days' imprisonment before the person is granted probation, suspension, or reduction of sentence or parole or is otherwise released, and be fined at least \$500.

- (d) On the fourth conviction of a violation of this section, a person must serve at least sixty (60) consecutive days' imprisonment before the person is granted probation, suspension, or reduction of sentence or parole or is otherwise released, and be fined at least \$700.
- (e) On the fifth conviction of a violation of this section, a person must serve at least ninety (90) consecutive days' imprisonment before the person is granted probation, suspension, or reduction of sentence or parole or is otherwise released, and be fined at least \$1,000.
- (f) On the sixth or subsequent conviction of a violation of this section, a person must serve at least one hundred twenty (120) consecutive days' imprisonment before the person is granted probation, suspension, or reduction of sentence or parole or is otherwise released, and be fined at least \$1,500.
- (g) On a third or subsequent conviction of a violation of this section, a person shall be sentenced to not less than ninety (90) days imprisonment and fined not less than \$1,500 if such person's privilege to drive a motor vehicle is canceled, suspended, or revoked because such person:
  - (1) Refused to submit and complete any test of blood, breath, or urine requested by law enforcement excluding the preliminary screening test as set forth in K.S.A. 8-1012, and amendments thereto;
  - (2) Was convicted of violating the provisions of K.S.A. 40-3104, and amendments thereto, relating to motor vehicle liability insurance coverage;
  - (3) Was convicted of vehicular homicide, K.S.A. 21-3405 or K.S.A. 21-5406, and amendments thereto, involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 2006 Supp. 21-3442 or K.S.A. 21-5405(a)(3), and amendments thereto, or any other murder or manslaughter crime resulting from the operation of a motor vehicle; or
  - (4) Was convicted of being a habitual violator, K.S.A. 8-287, and amendments thereto.
- (h) Any person convicted of a violation of this section when such person's privilege to drive a motor vehicle is canceled, suspended, or revoked because such person, (a) refused to submit and complete any test of blood, breath, or urine requested by law enforcement, excluding the preliminary screening test as set forth in K.S.A. 8-1012; (b) failed a test of blood, breath, or urine; or (c) as a result of an alcohol or drug related conviction as defined by K.S.A. 8-1013(b), must serve at least thirty (30) consecutive days' imprisonment before the person is granted probation, suspension, or reduction of sentence or parole or is otherwise released, and be fined at least \$500.
- (i) For the purposes of determining whether a conviction is a first, second, third, fourth, fifth, sixth or subsequent conviction in sentencing under this section, "conviction" includes a conviction of a violation of any ordinance of any city, or resolution of any county, or a law of any state which is in substantial conformity with this section. It is irrelevant whether an offense occurred before or after conviction for a previous offense.
- (n) Amendment. The following section of the Standard Traffic Ordinance is hereby amended to read as follows:
 

Section 200. Motor Vehicle Liability Insurance.

  - (a) Every owner of a motor vehicle shall provide motor vehicle liability insurance coverage in accordance with the Kansas Automobile Injury Reparations Act, K.S.A. 40-3101 *et seq.*, for every motor vehicle owned by such person, unless such motor vehicle:
    - (1) Is included under an approved self-insurance plan as provided in K.S.A. 40-3104(f);

- (2) is used as a driver training motor vehicle, as defined in K.S.A. 72-5015, and amendments thereto, in an approved driver training course by a school district or an accredited nonpublic school under an agreement with a motor vehicle dealer, and such motor vehicle liability insurance coverage is provided by the school district or accredited nonpublic school;
  - (3) is included under a qualified plan of self-insurance approved by an agency of the state in which such motor vehicle is registered and the form prescribed in subsection (b) of K.S.A. 40-3106, and amendments thereto, has been filed; or
  - (4) is expressly exempted from the provisions of this act.
- (b) An owner of an uninsured motor vehicle shall not permit the operation thereof upon a highway or upon property open to use by the public, unless such motor vehicle is expressly exempted from the provisions of the Kansas Automobile Injury Reparations Act.
  - (c) No person shall knowingly drive an uninsured motor vehicle upon a highway or upon property open to use by the public, unless such motor vehicle is expressly exempted from the provisions of the Kansas Automobile Injury Reparations Act.
  - (d) Any person operating a motor vehicle upon a highway or upon property open to use by the public shall display, upon demand, evidence of financial security to a law enforcement officer. The law enforcement officer shall issue a citation to any person who fails to display evidence of financial security upon such demand. The law enforcement officer shall attach a copy of the insurance verification form prescribed by the secretary of revenue to the copy of the citation forwarded to the court.

No citation shall be issued to any person for failure to provide proof of financial security when evidence of financial security meeting the standards of subsection (e) is displayed upon demand of a law enforcement officer. Whenever the authenticity of such evidence is questionable, the law enforcement officer may initiate the preparation of the insurance verification form prescribed by the secretary of revenue by recording information from the evidence of financial security displayed. The officer shall immediately forward the form to the department of revenue, and the department shall proceed with verification in the manner prescribed in the following paragraph. Upon return of a form indicating that insurance was not in force on the date indicated on the form, the department shall immediately forward a copy of the form to the law enforcement officer initiating preparation of the form.

- (e) Unless the insurance company subsequently submits an insurance verification form indicating that insurance was not in force, no person charged with violating subsections (b), (c), or (d) shall be convicted if such person produces in court, within ten (10) days of the date of arrest or of issuance of the citation, evidence of financial security for the motor vehicle operated, which was valid at the time of arrest or of issuance of the citation. For the purpose of this subsection, evidence of financial security shall be provided by a policy of motor vehicle liability insurance, an identification card or certificate of insurance issued to the policyholder by the insurer which provides the name of the insurer, the policy number and the effective and expiration dates of the policy, or a certificate of self-insurance signed by the commissioner of insurance.
- (f) Any person violating any provision of this section shall be guilty of a violation of this ordinance and subject to a fine of not less than \$300 or more than \$1,000 or by imprisonment for a term of not more than six (6) months, or both such fine and imprisonment, except that any person convicted of violating any provision of this section within three (3) years of any such prior conviction shall be guilty of a violation of this ordinance and subject to a fine of not less than \$800 nor more than

\$2,500 or by imprisonment for a term not to exceed one (1) year, or both such fine and imprisonment.

- (g) Upon a second conviction of a violation of this section, a person must serve at least five (5) consecutive days' imprisonment before the person is granted probation, suspension, or reduction of sentence or parole or is otherwise released.
- (h) Upon a third conviction of a violation of this section, a person must serve at least twenty (20) consecutive days' imprisonment before the person is granted probation, suspension, or reduction of sentence or parole or is otherwise released.
- (i) Upon a fourth or subsequent conviction of a violation of this section, a person must serve at least sixty (60) consecutive days' imprisonment before the person is granted probation, suspension, or reduction of sentence or parole or is otherwise released.
- (j) For the purposes of determining whether a conviction is a first, second, third, fourth or subsequent conviction in sentencing under this section, conviction includes a conviction of a violation of any ordinance of any city, or resolution of any county, or a law of any state which is in substantial conformity with this section. It is irrelevant whether an offense occurred before or after conviction for a previous offense.

SECTION 2. That Section 86-2 of the Code of Ordinances of the City of Garden City, as previously existing and amended, be and the same is hereby repealed, to be replaced as specified in this ordinance.

SECTION 3. That this ordinance shall be in full force and effect from and after October 1, 2014, and following its publication, in the Garden City Telegram, the official city newspaper.

APPROVED AND PASSED by the Governing Body of the City of Garden City, Kansas, this 2nd day of September, 2014.

\_\_\_\_\_  
ROY CESSNA, Mayor

ATTEST:

\_\_\_\_\_  
CELYN N. HURTADO, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
RANDALL D. GRISELL, City Attorney

**ORDINANCE NO. \_\_\_\_\_-2014**

AN ORDINANCE REGULATING PUBLIC OFFENSES WITHIN THE CORPORATE LIMITS OF THE CITY OF GARDEN CITY, KANSAS; INCORPORATING BY REFERENCE THE UNIFORM PUBLIC OFFENSE CODE FOR KANSAS CITIES, EDITION OF 2014, WITH CERTAIN OMISSIONS, ADDITIONS OR CHANGES; AMENDING CODE SECTION 62-2; REPEALING EXISTING CODE SECTION 62-2; ALL TO THE CODE OF ORDINANCES OF THE CITY OF GARDEN CITY, KANSAS.

BE IT ORDAINED by the Governing Body of the City of Garden City, Kansas:

SECTION 1. That Section 62-2 of the Code of Ordinances of the City of Garden City is hereby amended and shall read as follows:

Section 62-2. Uniform Public Offense Code.

(a) Incorporating Uniform Public Offense Code. There is hereby incorporated by reference for the purpose of regulating public offenses within the corporate limits of the City of Garden City, Kansas, that certain code known as the "Uniform Public Offense Code for Kansas Cities," Edition of 2014, hereinafter referred to as Uniform Public Offense Code, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, save and except such articles, sections, parts, or portions as are hereafter omitted, deleted, modified, added or amended. No fewer than three copies of the Uniform Public Offense Code shall be marked or stamped "Official Copy as Adopted by Ordinance No. 2666-2014," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of the ordinance codified in this section, and filed with the city clerk to be open to inspection and available to the public at all reasonable hours. All references to the Uniform Public Offense Code as adopted and incorporated into this Code shall be in a form designating section 62-2 followed in parenthesis by the section number of the Uniform Public Offense Code, as incorporated. [For example, section 10.5 of the Uniform Public Offense Code as incorporated shall be referenced as section 62-2(10.5).]

(b) Omissions. The following sections contained in Articles 1 through 11 of the Uniform Public Offense Code are hereby omitted and deleted:

Section 3.7	Mistreatment of a confined person.
Section 3.10	Eavesdropping.
Section 3.11	Unlawful administration of a substance.
Section 3.12	Breach of privacy.
Section 5.5	Watercraft; lifesaving devices required.
Section 6.11	Unlawful manufacture or disposal of false tokens.
Section 6.12	Serial numbers.
Section 6.14	Unlawful deposits in sewers.
Section 6.15	Damaging sewers.
Section 6.16	Giving a worthless check.
Section 6.17	Criminal use of a financial card.
Section 6.18	Motor vehicle dealers; selling motor vehicles without a license.
Section 6.19	Equity skimming.
Section 6.20	Computer trespass/computer password disclosure.
Section 6.21	Posting land.
Section 6.22	Criminal hunting.
Section 6.23	Unlawful use of a recording device.
Section 6.24	Unlawfully selling scrap metal.

Section 6.25	Unlawfully buying scrap metal.
Section 7.1	Compounding an offense.
Section 7.3	Escape from custody.
Section 7.6	Performance of unauthorized official act.
Section 7.7	Simulating legal process.
Section 7.8	Tampering with public record.
Section 7.9	Tampering with public notice.
Section 7.10	False signing of petition.
Section 7.11	False impersonation.
Section 7.14	Electioneering.
Section 8.1	Denial of civil rights.
Section 9.9	Abusing toxic vapors.
Section 9.13	Unlawful posting of political pictures and political advertisements.
Section 10.3	Criminal disposal of firearms.
Section 10.9	Carrying concealed explosives.
Section 10.12	Unlawful failure to report a wound.
Section 10.14	Operation of a motorboat or sailboat.
Section 10.15	Operating a vessel under the influence of intoxicating liquor or drugs; penalties.
Section 10.19	Sale of medicines and drugs through vending machines.
Section 10.20	Obtaining a prescription-only drug.
Section 10.23	Trafficking in counterfeit drugs.
Section 11.3	Commercialization of wildlife.

(c) Amendment. Section 1.1 of the Uniform Public Offense Code, also referred to as 62.2(1.1) of the Code is hereby amended to read as follows:

Section 1.1 Smoking; Definitions

(a) Access Point means the area within a 50 foot radius outside of any doorway, open window or air intake leading into a building or facility that is not exempted pursuant to subsection (c) of section 10.24.

(d) Amendment. Section 3.1 of the Uniform Public Offense Code, also referred to as 62.2(3.1) of the Code is hereby amended to read as follows:

Section 3.1. Battery.

(a) Battery is:

- (1) Knowingly or recklessly causing bodily harm to another person; or
- (2) Knowingly causing physical contact with another person when done in a rude, insulting, or angry manner.

Battery is a Class B violation.

(b) If a person is convicted of a violation of battery a second time, such person shall be guilty of a Class B violation and sentenced to not less than ninety (90) days nor more than one-hundred eighty (180) days imprisonment and fined not less than \$400 nor more than \$1,000. The ten (10) days' imprisonment mandated by this subsection may be served in a work release program only after such person has served forty-eight (48) consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted must serve at least ten (10) consecutive days' imprisonment before the person is granted probation, suspension, or reduction of sentence or parole or is otherwise released.

(c) If a person is convicted of a violation of battery a third time, such person shall be guilty of a Class B violation and sentenced to not less than ninety (90) days nor more than one-hundred eighty (180) days imprisonment and fined not less than \$500 nor more than \$1,000. The fifteen (15) days' imprisonment mandated by this subsection may be served in a work release program only after such person has served forty-eight (48) consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted must serve at least fifteen (15) consecutive days' imprisonment before the person is granted probation, suspension, or reduction of sentence or parole or is otherwise released.

(d) If a person is convicted of a violation of battery a fourth time, such person shall be guilty of a Class B violation and sentenced to not less than ninety (90) days nor more than one-hundred eighty (180) days imprisonment and fined not less than \$600 nor more than \$1,000. The twenty (20) days' imprisonment mandated by this subsection may be served in a work release program only after such person has served forty-eight (48) consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted must serve at least twenty (20) consecutive days' imprisonment before the person is granted probation, suspension, or reduction of sentence or parole or is otherwise released.

(e) If a person is convicted of a violation of battery a fifth or subsequent time, such person shall be guilty of a Class B violation and sentenced to not less than ninety (90) days nor more than one-hundred eighty (180) days imprisonment and fined not less than \$750 nor more than \$1,000. The thirty (30) days' imprisonment mandated by this subsection may be served in a work release program only after such person has served forty-eight (48) consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted must serve at least thirty (30) consecutive days' imprisonment before the person is granted probation, suspension, or reduction of sentence or parole or is otherwise released.

(f) For the purpose of determining whether a conviction is a second, third, fourth, fifth or subsequent conviction in sentencing under subsection (b), conviction includes being convicted of a violation of this section, Section 3.1.1, Domestic Battery, or Section 3.2, Battery Against a Law Enforcement Officer, or convicted of a violation of a law of any municipality, state, federal government or foreign government, which prohibits battery, domestic battery, or battery against a law enforcement officer, or entering into a diversion or deferred judgment agreement in lieu of further criminal proceedings in a case alleging a violation of such laws, ordinances, resolutions, or this section. It is irrelevant whether an offense occurred before or after conviction for a previous offense.

(e) Amendment. Section 3.1.1 of the Uniform Public Offense Code, also referred to as 62.2(3.1.1) of the Code is hereby amended to read as follows:

Section 3.1.1. Domestic Battery.

(a) Domestic Battery is:

- (1) Knowingly or recklessly causing bodily harm by a family or household member against a family or household member; or
- (2) Knowingly causing physical contact with a family or household member by a family or household member when done in a rude, insulting, or angry manner.

(b) (1) Upon a first conviction of a violation of domestic battery, a person shall be guilty of a Class B violation and sentenced to not less than forty-eight (48) consecutive hours' nor more than six (6) months' imprisonment, or in the court's discretion one hundred (100) hours of

public service, and fined not less than \$400 nor more than \$750. The person convicted must serve at least forty-eight (48) consecutive hours' imprisonment, or one hundred (100) hours of public service, before the person is granted probation, suspension, or reduction of sentence or parole or is otherwise released. As a condition of any grant of probation, suspension of sentence or parole or of any other release, the person shall be required to enter into and complete a treatment program for domestic violence prevention.

(2) If a person is convicted of a violation of domestic battery a second time, such person shall be guilty of a Class A violation and sentenced to not less than ninety (90) days nor more than one (1) year imprisonment and fined not less than \$500 nor more than \$1,000. The ten (10) days' imprisonment mandated by this subsection may be served in a work release program only after such person has served forty-eight (48) consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted must serve at least ten (10) consecutive days' imprisonment before the person is granted probation, suspension of sentence or parole or of any other release, for a conviction of domestic battery, the person shall be required to enter into and complete a treatment program for domestic violence prevention.

(c) As used in this section:

(1) **Family or household member** means persons 18 years of age or older who are spouses, former spouses, parents or stepparents and children or stepchildren, and persons who are presently residing together or who have resided together in the past, and persons who have a child in common regardless of whether they have been married or who have lived together at any time. **Family or household member** also includes a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time; and

(2) For the purpose of determining whether a conviction is a first or second conviction in sentencing under this section:

(A) Conviction includes being convicted of a violation of this section or entering into a diversion or deferred judgment agreement in lieu of further criminal proceedings on a complaint alleging a violation of this section.

(B) Conviction includes being convicted of a violation of a law of another state, or an ordinance of any city, or resolution of any county, which prohibits the acts that this section prohibits or entering into a diversion or deferred judgment agreement in lieu of further criminal proceedings in a case alleging a violation of such law, ordinance or resolution.

(C) It is irrelevant whether an offense occurred before or after conviction for a previous offense.

(D) A person may enter into a diversion agreement in lieu of further criminal proceedings for a violation of this section or an ordinance of any city or resolution of any county which prohibits the acts that this section prohibits only twice during any five (5) year period.

(f) Amendment. Section 3.2 of the Uniform Public Offense Code, also referred to as 62.2(3.2) of the Code, is hereby amended to read as follows:

Section 3.2. Battery Against a Law Enforcement Officer.

- (a) Battery against a law enforcement officer is a battery as defined in section 62.2(3.1) of the Code, committed against: (A) A uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty; or (B) A uniformed or properly identified state, county, or city law enforcement officer, other than a state correctional officer or employee, a city or county correctional officer or employee, a juvenile correctional facility officer or employee, while such officer is engaged in the performance of such officer's duty.

Battery against a law enforcement officer is a Class A violation.

- (b) Upon a first conviction of a violation of battery against a law enforcement officer, a person shall be sentenced to not less than ten (10) days nor more than one (1) year imprisonment and fined not less than \$500 nor more than \$1,000. The person must serve at least ten (10) consecutive days' imprisonment before the person is granted probation, suspension, or reduction of sentence or parole or is otherwise released.
- (c) Upon a second or subsequent conviction of battery against a law enforcement officer, a person shall be sentenced to not less than ninety (90) days nor more than one (1) year's imprisonment and fined not less than \$750 nor more than \$1,000. The person convicted must serve at least thirty (30) consecutive days' imprisonment before the person is granted probation, suspension, or reduction of sentence or parole or is otherwise released.
- (d) For the purpose of determining whether a conviction is a second or subsequent conviction in sentencing under subsection (c), conviction includes being convicted of a violation of this section, or convicted of a violation of a law of any municipality, state, federal government or foreign government, which prohibits battery against a law enforcement officer, or entering into a diversion or deferred judgment agreement in lieu of further criminal proceedings in a case alleging a violation of such laws, ordinances, resolutions, or this section. It is irrelevant whether an offense occurred before or after conviction for a previous offense.

(g) Amendment. Section 3.3 of the Uniform Public Offense Code, also referred to as 62.2(3.2) of the Code, is hereby amended to read as follows:

Section 3.3. Assault and Assault of a Law Enforcement Officer.

- (a) Assault is knowingly placing another person in reasonable apprehension of immediate bodily harm.
- (b) Assault of a law enforcement officer is assault, as defined in subsection (a), committed against:
  - (1) a uniformed or properly identified state, county or city law enforcement officer while such officer is engaged in the performance of such officer's duty; or
  - (2) a uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty. (K.S.A. Supp. 21-5412)

Assault is a Class C violation.

Assault of a law enforcement officer is a Class A violation. Upon a conviction of a violation of assault of a law enforcement officer, a person shall be fined not less than \$300 nor more than \$1,000.

(h) Amendment. Section 5.8 of the Uniform Public Offense Code, also referred to as 62.2(6.1) of the Code, is hereby amended to read as follows:

Section 5.8. Purchase, Consumption or Possession of Alcoholic Liquor or Cereal Malt Beverage by a Minor; 18-21.

- (a) Except with regard to serving of alcoholic liquor or cereal malt beverage as permitted by K.S.A. 41-308a, 41-308b, 41-727a, 41-2610, 41-2652, 41-2704, and 41-2727, and amendments thereto, and subject to any rules and regulations adopted pursuant to such statutes, no person under 21 years of age shall possess, consume, obtain, purchase or attempt to obtain or purchase alcoholic liquor or cereal malt beverage except as authorized by law.
- (b) In addition to any other penalty provided for a violation of this section:
  - (1) The Court may order the offender to do either or both of the following:
    - (A) Perform 40 hours of public service; or
    - (B) Attend and satisfactorily complete a suitable educational or training program dealing with the effects of alcohol or other chemical substances when ingested by humans.
  - (2) Upon a first conviction of a violation of this section, the court shall order the division of vehicles to suspend the driving privilege of such offender for 30 days. Upon receipt of the court order, the division shall notify the violator and suspend the driving privileges of the violator for 30 days whether or not that person has a driver's license.
  - (3) Upon a second conviction of a violation of this section, the court shall order the division of vehicles to suspend the driving privilege of such offender for 90 days. Upon receipt of the court order, the division shall notify the violator and suspend the driving privileges of the violator and suspend the driving privileges of the violator for 90 days, whether or not that person has a driver's license.
  - (4) Upon a third or subsequent conviction of a violation of this section, the court shall order the division of vehicles to suspend the driving privilege of such offender for one year. Upon receipt of the court order, the division shall notify the violator and suspend the driving privileges of the violator for one year whether or not that person has a driver's license.
- (c) This section shall not apply to the possession and consumption of cereal malt beverage by a person under the legal age for consumption of cereal malt beverage when such possession and consumption is permitted and supervised, and such beverage is furnished, by the person's parent or legal guardian. (K.S.A. Supp. 41-727)
- (d) Violation of this section by a person 18 or more years of age but less than 21 years of age is a Class C violation. On a first conviction of a violation of this section, a person shall be fined not less than \$200. For a second conviction of a violation of this section, a person shall be fined not less than \$400. For a third and subsequent conviction of a violation of this section, a person shall be fined not less than \$600.

(i) Amendment. Section 6.1 of the Uniform Public Offense Code, also referred to as 62.2(6.1) of the Code, is hereby amended to read as follows:

Section 6.1. Theft.

- (a) Theft is any of the following acts done with the intent to deprive the owner permanently of the possession, use, or benefit of the owner's property or services:
  - (1) Obtaining or exerting unauthorized control over property or services;
  - (2) Obtaining control over property or services by deception;
  - (3) Obtaining control over property or services by threat;

- (4) Obtaining control over stolen property or services knowing the property or services to have been stolen by another; or
  - (5) Knowingly dispensing motor fuel into a storage container or the fuel tank of a motor vehicle at an establishment in which motor fuel is offered for retail sale and leaving the premises of the establishment without making payment for the motor fuel.
- (b) Theft of property or services of the value of less than \$1,000 is a Class A violation except: (1) when the person has been convicted of theft two or more times; (2) theft of property or services regardless of the value from three separate mercantile establishments within a period of seventy-two (72) hours as part of the same act or transaction or in two or more acts or transactions connected together or constituting parts of a common scheme or course of conduct; or (3) property which is a firearm of the value of less than \$25,000, in which case it is a felony under state statute.

Conviction of a violation of a municipal ordinance or state statute prohibiting acts which constitute theft as defined by this section shall be considered a conviction of theft for the purpose of determining the number of proper convictions and the classification of the crime under this section.

- (c) Upon a first conviction of a violation of theft, a person shall be sentenced to not less than two (2) days nor more than one (1) year imprisonment and fined not less than \$300 nor more than \$500. The person must serve at least two (2) consecutive days' imprisonment before the person is granted probation, suspension, or reduction of sentence or parole or is otherwise released.
- (d) If a person is convicted of a violation of theft a second time, such person shall be sentenced to not less than ninety (90) days nor more than one (1) year imprisonment and fined not less than \$500 nor more than \$1,000. The person convicted must serve at least ten (10) consecutive days' imprisonment before the person is granted probation, suspension, or reduction of sentence or parole or is otherwise released.
- (e) For the purpose of determining whether a conviction is a second conviction in sentencing under subsection (c), conviction includes being convicted of a violation of this section, or convicted of a violation of a law of any municipality, state, federal government or foreign government, which prohibits the acts that this section prohibits, or entering into a diversion or deferred judgment agreement in lieu of further criminal proceedings in a case alleging a violation of such law, ordinance, resolution, or this section. It is irrelevant whether an offense occurred before or after conviction for a previous offense.

(j) Amendment. Section 7.2 of the Uniform Public Offense Code, also referred to as 62.2(7.2) of the Code, is hereby amended to read as follows:

Section 7.2. Interference With a Law Enforcement Officer.

- (a) Interference with a law enforcement officer is:
  - (1) Falsely reporting to a law enforcement officer, law enforcement agency, or state investigative agency:
    - (A) That a particular person has committed a crime, knowing that such information is false and intending that the officer or agency shall act in reliance upon such information;
    - (B) That a law enforcement officer has committed a crime or committed misconduct in the performance of such officer's duties, knowing that such information is false and intending that the officer or agency shall act in reliance upon such information; or

- (C) Any information, knowing that such information is false and intending to influence, impede or obstruct such officer's or agency's duty; or
- (2) Concealing, destroying or materially altering evidence with the intent to prevent or hinder the apprehension or prosecution of any person; or
- (3) Knowingly obstructing, resisting or opposing any person authorized by law to serve process in the service or execution or in the attempt to serve or execute any writ, warrant, process or order of a court, or in the discharge of any official duty.

Interference with a law enforcement officer is a Class A violation.

- (b) If a person is convicted of a violation of interference with a law enforcement officer a second or subsequent time, such person shall be sentenced to not less than ninety (90) days nor more than one (1) year imprisonment and fined not less than \$750 nor more than \$1,000. The ten (10) days' imprisonment mandated by this subsection may be served in a work release program only after such person has served forty-eight (48) consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted must serve at least ten (10) consecutive days' imprisonment before the person is granted probation, suspension of sentence or parole or of any other release.
- (c) For the purpose of determining whether a conviction is a second or subsequent conviction in sentencing under subsection (b), conviction includes being convicted of a violation of this section, or convicted of a violation of a law of any municipality, state, federal government or foreign government, which prohibits the acts that this section prohibits, or entering into a diversion or deferred judgment agreement in lieu of further criminal proceedings in a case alleging a violation of such law, ordinance, resolution, or this section. It is irrelevant whether an offense occurred before or after conviction for a previous offense.

(k) Amendment. Section 10.4 of the Uniform Public Offense Code, also referred to as 62.2(10.4) of the Code, is hereby amended to read as follows:

Section 10.4. Confiscation, forfeiture, and disposition of weapons.

- (a) Upon conviction of a violation of sections 10.1, 10.1.1, 10.1.2, 10.1.3, 10.2, 10.3.1, 10.5, 10.6, or 10.8 of this article or of section 62-14 of the Code of Ordinances of the City of Garden City, Kansas, any weapon seized in connection therewith shall remain in the custody of the municipal court.
- (b) Any stolen weapon so seized and detained, when no longer needed for evidentiary purposes, shall be returned to the person entitled to possession, if known. All other confiscated weapon when no longer needed for evidentiary purposes, shall be deemed forfeited to the City of Garden City, Kansas, and thereafter, shall be destroyed or preserved as city property. All weapons forfeited to the City of Garden City, Kansas, may in the discretion of the Garden City Police Department, be destroyed, be used by the Garden City Police Department, traded to another law enforcement agency's use, or forwarded to the Kansas Bureau of Investigation for law enforcement testing, comparison or destruction by the Kansas Bureau of Investigation forensic laboratory. Upon conviction of a violation of any of the sections delineated in 10.4(a) above, all right, title, and interest of any individual so convicted, to any weapon used in such a violation, shall be deemed forfeited to the City of Garden City, Kansas.

(l) Amendment. Section 10.24 of the Uniform Public Offense Code, also referred to as 62.2(10.24) of the Code, is hereby amended to read as follows:

#### 10.24 Smoking Prohibited.

- (a) It shall be unlawful, with no requirement of a culpable mental state, to smoke in an enclosed area or at a public meeting including, but not limited to:
- (1) public places;
  - (2) taxicabs and limousines;
  - (3) restrooms, lobbies, hallways and other common areas in public and private buildings, condominiums and other multiple-residential facilities;
  - (4) restrooms, lobbies and other common areas, and all sleeping rooms in hotels and motels;
  - (5) access points of all buildings and facilities not exempted pursuant to subsection (c), with the exception of access points leading into or out of outdoor patio areas where smoking is lawful;
  - (6) any place of employment;
  - (7) any public assembly seating, bleacher section, grandstand, or other seating, affixed and permanent in nature located in the city, on any property owned or leased by any municipality, whether city, county, state, school district or community college;
  - (8) any building, structure, or athletic field and seating area, owned, leased, or occupied by a unified school district or a community college;
  - (9) private clubs and fraternal organization facilities; and
  - (10) all public access areas within Lee Richardson Zoo, both enclosed and otherwise, with the exception that smoking shall be allowed in private motor vehicles occupied by visitors to Lee Richardson Zoo.
- (b) Each employer having a place of employment that is an enclosed area shall provide a smoke-free workplace for all employees. Such employer shall also adopt and maintain a written smoking policy which shall prohibit smoking without exception in all areas of the place of employment. Such policy shall be communicated to all current employees within one week of its adoption and shall be communicated to all new employees upon hiring. Each employer shall provide a written copy of the smoking policy upon request to any current or prospective employee.
- (c) The provisions of this section shall not apply to:
- (1) the outdoor areas of any building or facility beyond the access points of such building or facility, except as noted in (a)(7), (8) and (10) above; and
  - (2) private homes or residences, except when such home or residence is used as a day care home, as defined in K.S.A. 65-530, and amendments thereto.

SECTION 2. That Section 62-2 of the Code of Ordinances of the City of Garden City, Kansas, as previously existing and amended, be and the same is hereby repealed, to be replaced as specified in this ordinance.

SECTION 3. That this ordinance shall be in full force and effect from and after October 1, 2014, and following its publication, in the Garden City Telegram, the official city newspaper.

APPROVED AND PASSED by the Governing Body of the City of Garden City, Kansas, this 2nd day of September, 2014.

\_\_\_\_\_  
ROY CESSNA, Mayor

ATTEST:

\_\_\_\_\_  
CELYN N. HURTADO, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
RANDALL D. GRISELL, City Counselor

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## MEMORANDUM

**TO:** Governing Body  
**FROM:** Matt Allen, City Manager  
**DATE:** August 29, 2014  
**RE:** Interference with parental custody

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### CITY COMMISSION

ROY CESSNA,

Mayor

MELVIN L. DALE

JANET A. DOLL

DAN FANKHAUSER

J. CHRISTOPHER LAW

MATTHEW C. ALLEN  
City Manager

MELINDA A. HITZ, CPA  
Finance Director

RANDALL D. GRISELL  
City Counselor

### Issue

The Governing Body is asked to consider and approve an Ordinance making it a violation of local law to interfere with parental custody.

### Background

The City Prosecutor and GCPD are advise there is a need to be able to prosecute misdemeanor offenses of this nature in municipal court. At the current time, Parental Custody is part of State law, however, our Code to silent to these offenses. As a result, matters of interference with parental custody cannot be prosecuted in municipal court. The proposed Ordinance is attached and City Prosecutor Cunningham will be present to provide additional information.

### Alternatives

1. Adopt the Ordinance.
2. Do not adopt the Ordinance.

### Recommendation

Staff recommends Alternative 1.

### Fiscal Note

None.

### CITY ADMINISTRATIVE

CENTER

301 N. 8<sup>TH</sup>

P.O. Box 998

GARDEN CITY, KS

67846-0998

620.276.1160

FAX 620.276.1169

[www.garden-city.org](http://www.garden-city.org)

ORDINANCE NO. \_\_\_\_\_-2014

AN ORDINANCE MAKING IT UNLAWFUL TO INTERFERE WITH PARENTAL CUSTODY IN THE CITY OF GARDEN CITY, KANSAS; CREATING NEW CODE SECTION 62-21; ALL TO THE CODE OF ORDINANCES OF THE CITY OF GARDEN CITY, KANSAS.

BE IT ORDAINED by the Governing Body of the City of Garden City, Kansas:

**Section 1.** That new Section 62-21 of the Code of Ordinances for the City of Garden City, Kansas, is hereby added, to read as follows:

**Section 62-21. Interference with parental custody.**

- (a) Interference with parental custody is taking or enticing away any child under the age of 16 years with the intent to detain or conceal such child from the child's parent, guardian or other person having the lawful charge of such child.
- (b) Interference with parental custody is class A violation, if the defendant is a parent entitled to joint custody of the child either on the basis of a court order or by virtue of the absence of a court order.
- (c) It is not a defense to a prosecution under subsection (a) that the defendant is a parent entitled to joint custody of the child either on the basis of a court order or by virtue of the absence of a court order.

**SECTION 2.** That this ordinance be given full force and effect from and after its publication, in the Garden City Telegram, the official city newspaper.

APPROVED AND PASSED by the Governing Body of the City of Garden City, Kansas, this 2nd day of September, 2014.

\_\_\_\_\_  
ROY CESSNA, Mayor

ATTEST:

\_\_\_\_\_  
CELYN N. HURTADO, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
RANDALL D. GRISELL, City Counselor



# Memo

To: City Commission  
From: Kaleb Kentner  
CC: File  
Date: September 2, 2012  
Re: Kansas Moderate Income Housing RFP for 2014

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**ISSUE:** Governing Body consideration and approval of resolutions allowing the City of Garden City to participate in the Kansas Moderate Income Housing (MIH) Grant Program from the Kansas Housing Resources Corporation (KHRC) and to prioritize the applicants

**BACKGROUND:** The Kansas Moderate Income Housing Program (the Program) allows cities incorporated in Kansas with a population of fewer than 60,000 to request grants or loans for infrastructure and/or housing development in rural areas. Grants or loans under the Program will be limited to no more than \$400,000.00 per awardee. CG Investments, LLC, Samy's Development, LLC, and Prairie Wind Homes of Kansas, LLC (the Developers) have approached the City about partnering to participate in the Program. The program requires a resolution by the applicant's City Governing Body, giving the City authority to apply for and participate in the Program. The City may submit more than one application; however, only one award may be issued, therefore KHRC requires the local jurisdiction to prioritize the applicants.

The Kansas Housing Resources Corporation has evaluation guidelines to help determine which development will be allowed to participate in the program. However, we do not know how KHRC weights each item in the guidelines. Staff encourages the Commission to follow these guidelines to assist in determining the Cities' priorities; the complete guidelines are included at the end of this memo. In addition, the Developers applications and packets have been included for your review as well. To better assist with the selection process, below is a summary of each development.

## Prairie View Acres

CG Investments, LLC will be developing Prairie View Acres, Phase One. This project is located off of Campus Drive just south of the Trails Development. Phase One of this development will consist of thirteen (13) duplex lots and eight (8) four-plexes totaling fifty eight (58) units. All the units will be for sale and priced at the moderate level (between \$100,000-\$200,000), and the developer plans on having Phase One completed in one year. This developer will also be developing Phase Two which will include six (6) duplexes, four (4) four-plexes, and five (5) thirty six unit apartment buildings. This will add an additional two hundred eight (208) units to the market, with one hundred and eighty (180) of them being rental units.

CG Investments, LLC is a company based out of Iowa and is new to the Garden City area. They are anxious to build and provide affordable housing to this area. This will be their first MIH grant partnership within the state of Kansas. They are asking for the maximum amount of \$400,000.

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620-276-1170

### INSPECTIONS

620-276-1120

[inspection@garden-city.org](mailto:inspection@garden-city.org)

### CODE COMPLIANCE

620-276-1120

[code@garden-city.org](mailto:code@garden-city.org)

### PLANNING AND ZONING

620-276-1170

[planning@garden-city.org](mailto:planning@garden-city.org)

### CITY ADMINISTRATIVE

CENTER

301 N. 8<sup>TH</sup>

P.O. Box 998

GARDEN CITY, KS

67846-0998

PH 620.276.1170

FAX 620.276.1173

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### Clarion Park Estates

Samy's Development, LLC will be developing Clarion Park Estates. This project is located on the northwest corner of Spruce Street and Jennie Barker Road. The development will consist of sixteen (16) for rent duplexes and thirty six (36) homes for sale. When completed, this will add a total sixty eight (68) units to the market. The developer plans on having this project completed in one year.

Samy's Development, LLC, while using a different name, are the same developers that developed Pioneer Road Estates. Samy's Development, LLC would like to complete Clarion Park Estates in the same fashion as Pioneer Road Estates. Garden City, on behalf of Pioneer Road Estates development was awarded a MIH grant in 2012 for \$375,000. They are seeking a grant for \$275,000 this year.

### East Garden Village and Prairie Wind

Prairie Wind Homes of Kansas, LLC will be seeking a MIH grant to supplement the East Garden Village and Prairie Wind developments. This project is located at 4101 E. Highway 50 and 950 N. Jennie Barker Road. The development consists of 869 mobile home units, with 585 of these units already occupied. Prairie Wind Homes of Kansas, LLC is proposing to add sixty (60) new home to this development in 2015 and is seeking the MIH grant to cover transportation and set-up costs to help reduce the overall costs for new homeowners in the Affordable Low category as outlined in the 2012 CHAT report.

East Garden Village has been open since 1982, and aims to supply affordable homes to Garden City. Prairie Wind Homes of Kansas, LLC continually has a waiting list and would like to be able to provide additional homes in a more timely fashion with the funds from this grant. They are seeking a grant for the maximum amount of \$400,000.00.

### CHAT Information

According to the most recent CHAT report (2012), there is a market demand for affordable and moderate housing. For the affordable housing, the demand will be met through 2018 (refer to graph). For the moderate housing, (with the addition of the houses to be built in Prairie View Acres and Clarion Park Estates), this demand will be met and the market should be satisfied through 2022 (refer to graph). There is also a market demand for rental housing. With the rental additions from Clarion Park Estates, along with the rentals that will be built in Phase Two of Prairie View Acres, this demand will be met and the market looks to be well satisfied past 2022 (refer to graph). However, it is important to note that a new CHAT report is due to be released shortly; therefore, these demand numbers will be changing.



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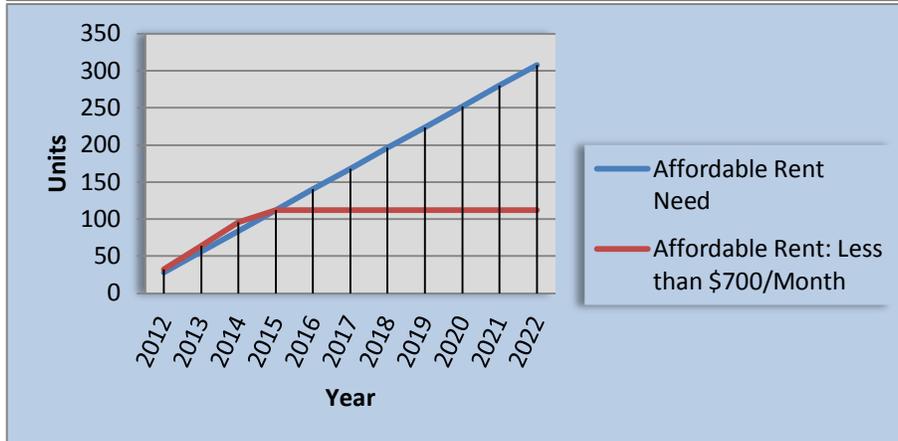
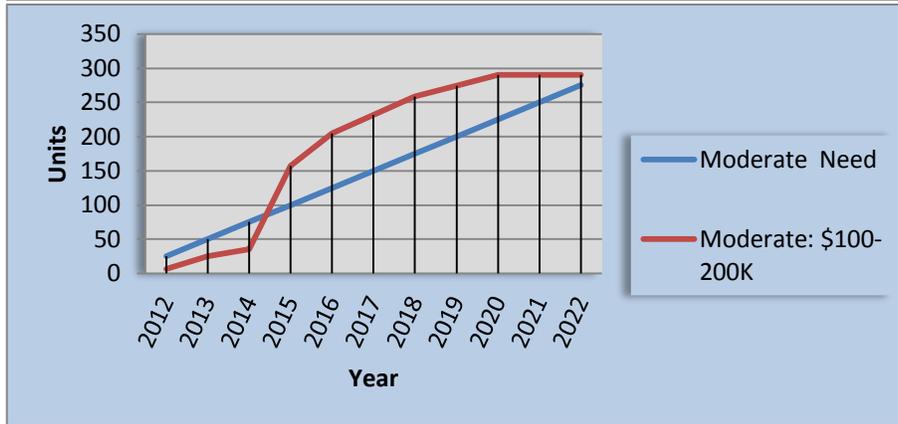
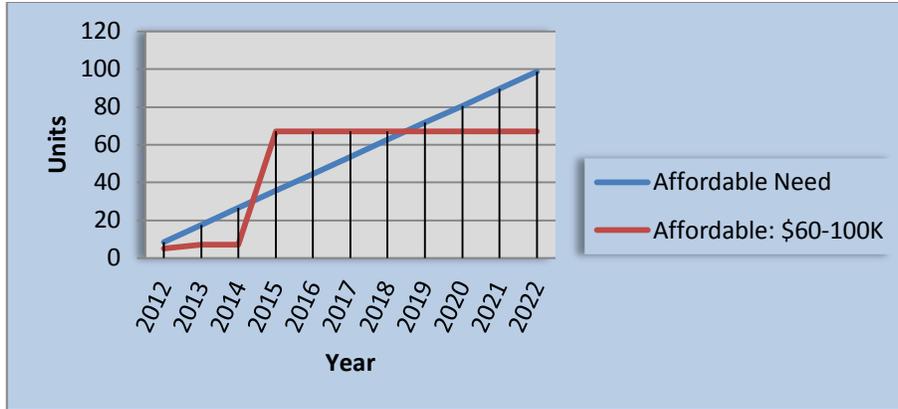
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**ALTERNATIVES:**

1. Approve all three resolutions and prioritize the three applications.
2. Do not approve the accompanying resolutions.
3. Approve all three resolutions and the attached letter to KHRC authorizing KHRC to determine the top priority.

**RECOMMENDATION:** Staff is unable to recommend the order in which to prioritize the developments. According to the CHAT report, all the proposed developments will meet the housing needs of Garden City. All three developments are needed and warrant consideration



for grant funding. Staff suggests that the prioritization of the developments be based on the project the Commissioners agree will have the best chance to be awarded the grant from KHRC.

**FISCAL NOTE:** Because the Developers will be pursuing a grant, not a loan, there is no fiscal note.

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ZONING**  
620-276-1170  
[planning@garden-city.org](mailto:planning@garden-city.org)

CITY ADMINISTRATIVE  
CENTER  
301 N. 8<sup>TH</sup>  
P.O. Box 998  
GARDEN CITY, KS  
67846-0998  
PH 620.276.1170  
FAX 620.276.1173  
[www.garden-city.org](http://www.garden-city.org)

## **ATTACHMENT B: KANSAS MODERATE INCOME HOUSING RFP EVALUATION GUIDELINES**

Applications for grant or loan funds under the Kansas Moderate Income Housing (MIH) RFP will be evaluated based on the following guidelines:

### **1. Need**

- a. Ability to identify housing needs of applicant's community
- b. Urgency of housing need, i.e., areas of significant economic development
- c. Ability of applicant to address housing need with existing funds
- d. Community's response to housing need to date
- e. Receipt of MIH funding previously

### **2. Capacity:** Capacity of applicant (and applicant's partners or contractors, if applicable) to administer RFP funds, including resolution from governing body approving participation in RFP, history of applicant, organizational structure, and experience with similar grant/loan administration activities.

### **3. Use of Funds**

- a. Specifically identified intended use of funds, including allocation of expenditures and expected outcomes
- b. Targets moderate income housing needs of community
- c. KHRC's analysis of impact of funds on housing, economic development, government, etc., in community

### **4. Community Support:** Ability to demonstrate community support

### **5. Leveraged Funds**

- a. Specifically identifies and values sources of leveraged funds
- b. Proportion of leveraged funds as compared to RFP funds

### **6. Loans Over Grants:** Ability to request and utilize RFP funds in the form of loans (below market) over grants

### **7. Application**

- a. Timeliness of application and responses to requests for follow-up information
- b. Thoroughness of application – application completed in its entirety, questions thoroughly answered, supporting documents submitted
- c. Ability to meet minimum RFP requirements
- d. If multiple proposed housing activities in application, applicant's priorities clearly stated

**8. Applicant History, Experience and Compliance**

- a. For applicants and/or developers who have received awards previously, consideration will be given in part based on the applicant's and/or developer's past history, experience, loan or grant administration activity and compliance with the MIH RFP and grant agreement along with:
- i. Readiness to proceed
    - 1. Is the previous development underway and at least 50% complete?
    - 2. Did the previous development begin on time?
  - ii. Submission of monthly reports
  - iii. Responsiveness to requests for information



September 2, 2014

Kansas Housing Resources Corporation  
James R. Behan, Director of Operations  
611 South Kansas Ave., Suite 300  
Topeka, KS 66603-3803

Dear Mr. Behan,

Please find enclosed three (3) copies of the 2014 Response to the Kansas Moderate Income Housing (MIH) Request for Proposal for Clarion Park Estates, Prairie View Acres, and East Garden Village for Garden City, KS.

The Garden City governing body has determined that there is a substantial need for housing in this community; therefore, all developments warrant consideration. It is the decision of the Commission to, therefore, recommend the Kansas Housing Resources Corporation use their evaluation guidelines to determine the top priority. The Commission will agree that whichever development ranks number one through your objective evaluation process will be the top priority project for the City of Garden City, and so forth with the remaining candidates.

Please feel free to contact the Planning and Community Development Department if you have any questions or concerns regarding this submittal.

Respectfully,

Roy Cessna, Mayor

COMMUNITY  
DEVELOPMENT  
DEPARTMENT  
SERVING  
GARDEN CITY  
HOLCOMB  
AND  
FINNEY COUNTY  
620-276-1170

**INSPECTIONS**  
620-276-1120

[inspection@garden-city.org](mailto:inspection@garden-city.org)

**CODE COMPLIANCE**  
620-276-1120  
[code@garden-city.org](mailto:code@garden-city.org)

**PLANNING AND  
ZONING**  
620-276-1170  
[planning@garden-city.org](mailto:planning@garden-city.org)

CITY ADMINISTRATIVE  
CENTER  
301 N. 8<sup>TH</sup>  
P.O. Box 998  
GARDEN CITY, KS  
67846-0998  
620.276.1160  
FAX 620.276.1169  
[www.garden-city.org](http://www.garden-city.org)

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION MAKING CERTAIN FINDINGS AND DETERMINATIONS GIVING AUTHORITY TO THE CITY OF GARDEN CITY, KANSAS TO PARTNER WITH SAMY'S DEVELOPMENT, LLC AND APPLY FOR AND PARTICIPATE IN THE KANSAS MODERATE INCOME HOUSING PROGRAM.**

---

**WHEREAS**, the Kansas Moderate Income Housing (MIH) Request for Proposal (RFP) authorizes any city incorporated in accordance with the laws of the State of Kansas (the "State") with a population of less than 60,000 to apply for loans or grants to cities for infrastructure or housing development in rural areas; and

**WHEREAS**, the Governing Body of such city may adopt a resolution making certain findings giving the city authority to apply for and participate in said RFP; and

**WHEREAS**, the City of Garden City , Kansas ( the "City") has an estimated population of 30,678 and therefore constitutes an eligible city as said term is defined in this RFP; and

**WHEREAS**, based on the Housing Needs Analysis performed by the City, the Governing Body of the City proposes to partner with Samy's Development, LLC to develop moderate income housing in accordance with the MIH RFP.

**THEREFORE, BE IT RESOLVED** by the Governing Body of the City of Garden City, Kansas, as follows:

**Section 1.** The Governing Body hereby finds and determines that there is a shortage of quality housing of various price ranges in the City despite the best efforts of public and private housing developers.

**Section 2.** The Governing Body hereby finds and determines that the shortage of quality housing can be expected to persist and that additional financial incentives are necessary in order to encourage the private sector to construct or renovate housing in the City.

**Section 3.** The Governing Body hereby finds and determines that the shortage of quality housing is a substantial deterrent to future economic growth and development in the City.

**Section 4.** The Governing Body hereby finds and determines that the future economic wellbeing of the City depends on the Governing Body providing additional incentives for the construction or renovation of quality housing in the City.

**Section 5.** Based on the findings and determinations contained in Sections 1 through 4 of this Resolution, the Governing Body authorizes the City to partner with Samy's Development, LLC to apply for and participate in the RFP, within the boundaries of the real estate legally described and depicted in maps in Exhibits "A" and "B" attached hereto.

**Section 6.** This Resolution shall take effect after its adoption and publication once in the official City newspaper. APPROVED AND PASSED by the Governing Body of the City of Garden City, Kansas, this 2<sup>nd</sup> day of September, 2014.

\_\_\_\_\_  
ROY CESSNA, Mayor

ATTEST:

\_\_\_\_\_  
CELYN N. HURTADO, City Clerk

APPROVED AS TO FORM:

## Exhibit "A"

A tract of land in the Northeast Quarter (NE/4) of Section Sixteen (16), Township Twenty-four (24) South, Range Thirty-two (32) West of the 6<sup>th</sup> P.M., in Finney County, Kansas, more particularly described as follows: commencing at the East Quarter corner of Section 16, Township 24 South, Range 32 West, thence at an assumed bearing of North 0°00'00" East along the East section line of Section 16 for a distance of 30.00 feet to the point of beginning; thence at a bearing of North 89°50'32" West for a distance of 300.00 feet; thence along the East line of USD 457 property at a bearing of North 0°01'28" East for a distance of 630 feet; thence at a bearing of South 89°50'32" East for a distance of 299.72 feet; thence South along the East line of Section 16 at a bearing of South 0°00'00" West for a distance of 630.00 feet to the point of beginning.

EXCEPT Tracts deeded to the City of Garden City, Kansas by Deed filed in Book 273, page 166, described as follows: The Easterly 35 feet of the Northerly 333.88 feet of the Southerly 659.65 feet of the Northeast Quarter (NE/4) of Section 16, Township Twenty-four (24) South, Range Thirty-two (32) West of the 6<sup>th</sup> P.M., Finney County Kansas; and

The Easterly 40 feet of the Northerly 261.00 feet of the Southerly 325.77 feet of the Northeast Quarter (NE/4) of Section Sixteen (16), Township Twenty-four (24) South, Range Thirty-two (32) West of the 6<sup>th</sup> P.M., and

The Easterly 75 feet of the Southerly 64.77 feet of the Northeast Quarter (NE/4) of Section Sixteen (16), Township Twenty-four (24) South, Range Thirty-two (32) West of the 6<sup>th</sup> P.M., in Finney County, Kansas.

AND

A tract of land located in Section Sixteen(16), Township Twenty-four (24) South, Range Thirty-two (32) West of the 6<sup>th</sup> P.M., in Finney County, Kansas, more particularly described as follows:

Beginning at the East Quarter Corner of Section Sixteen (16), Township Twenty-four (24) South, Range Thirty-two (32) West of the 6<sup>th</sup> P.M., Finney County, Kansas, thence North along the East Section Line of said Section Sixteen (16), a distance of 660 feet; thence West to the West right of way line of Jennie Barker Road 30.00 feet, said point also being the true point of beginning; thence North 660 feet; thence West 660 feet; thence South 660 feet; thence East 660 feet to the true point of beginning. Except all water rights and rights to appropriate water.

And EXCEPT the Easterly Five (5) Feet deeded to the City of Garden City, Kansas by Deed filed in Book 273, Page 167.

Exhibit "B"



(Published in the Garden City Telegram on the \_\_\_\_\_ day of September, 2014)

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION MAKING CERTAIN FINDINGS AND DETERMINATIONS GIVING AUTHORITY TO THE CITY OF GARDEN CITY, KANSAS TO PARTNER WITH PRAIRIE WIND HOMES OF KANSAS, LLC AND APPLY FOR AND PARTICIPATE IN THE KANSAS MODERATE INCOME HOUSING PROGRAM.**

---

**WHEREAS**, the Kansas Moderate Income Housing (MIH) Request for Proposal (RFP) authorizes any city incorporated in accordance with the laws of the State of Kansas (the "State") with a population of less than 60,000 to apply for loans or grants to cities for infrastructure or housing development in rural areas; and

**WHEREAS**, the Governing Body of such city may adopt a resolution making certain findings giving the city authority to apply for and participate in said RFP; and

**WHEREAS**, the City of Garden City, Kansas (the "City") has an estimated population of 30,678 and therefore constitutes an eligible city as said term is defined in this RFP; and

**WHEREAS**, based on the Housing Needs Analysis performed by the City, the Governing Body of the City proposes to partner with Prairie Wind Homes of Kansas, LLC to develop moderate income housing in accordance with the MIH RFP.

**THEREFORE, BE IT RESOLVED** by the Governing Body of the City of Garden City, Kansas, as follows:

**Section 1.** The Governing Body hereby finds and determines that there is a shortage of quality housing of various price ranges in the City despite the best efforts of public and private housing developers.

**Section 2.** The Governing Body hereby finds and determines that the shortage of quality housing can be expected to persist and that additional financial incentives are necessary in order to encourage the private sector to construct or renovate housing in the City.

**Section 3.** The Governing Body hereby finds and determines that the shortage of quality housing is a substantial deterrent to future economic growth and development in the City.

**Section 4.** The Governing Body hereby finds and determines that the future economic wellbeing of the City depends on the Governing Body providing additional incentives for the construction or renovation of quality housing in the City.

**Section 5.** Based on the findings and determinations contained in Sections 1 through 4 of this Resolution, the Governing Body authorizes the City to partner with Prairie Wind Homes of Kansas, LLC to apply for and participate in the RFP, within the boundaries of the real estate legally described and depicted in maps in Exhibits "A" and "B" attached hereto.

**Section 6.** This Resolution shall take effect after its adoption and publication once in the official City newspaper. APPROVED AND PASSED by the Governing Body of the City of Garden City, Kansas, this 2<sup>nd</sup> day of September, 2014.

\_\_\_\_\_  
ROY CESSNA, Mayor

ATTEST:

\_\_\_\_\_  
CELYN N. HURTADO, City Clerk

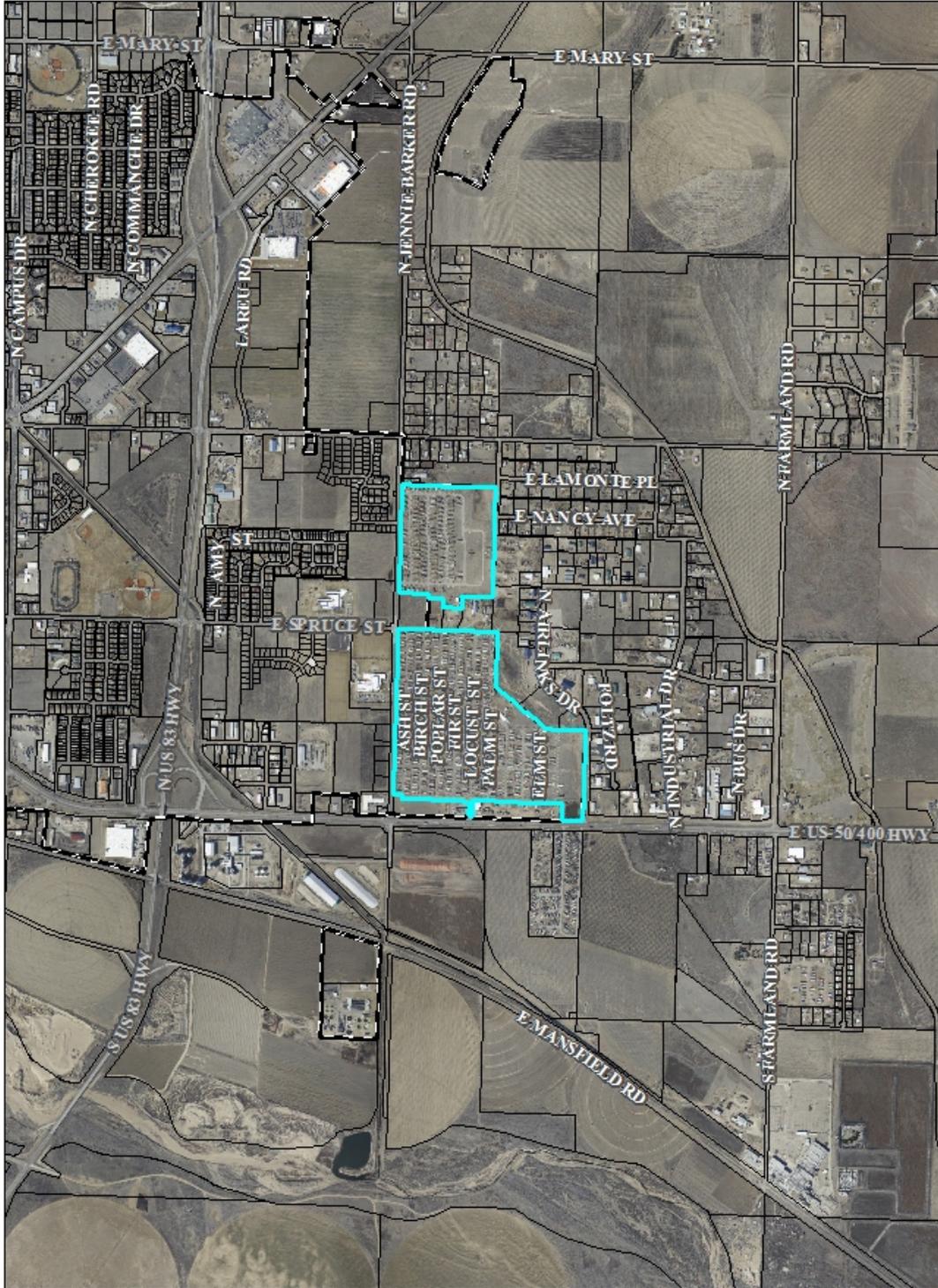
Exhibit "A"

Tract A, Martin's Mobile Home Park, Inc., Garden City, Finney County, Kansas, according to the recorded plat thereof, Except: A tract of land lying in the Southwest Quarter (SW 1/4) of Section 15, Township 24 South, Range 32 West of the 6th Principal Meridian, being a part of Tract "A" of the Replat of Martins Mobile Home Park, Inc., all in Finney County, Kansas, for the use of Permanent Road Right Of Way, and being more particularly described as follows; Commencing at the Northwest (NW) Corner of said Southwest Quarter (SW 1/4); thence S88°11'48"E on the North line of said Southwest Quarter (SW 1/4) a distance of 30.00 feet to POINT OF BEGINNING; thence continuing S88°11.48"E a distance of 10.00 feet, thence S01°33'49"W a distance of 351.00 feet; thence S12°52.24"W a distance of 25.50 feet; thence S01°33'49"W a distance of 1900.16 feet to the South line of Tract "A" of the Replat of Martin's Mobile Home Park Inc.; thence N88°27.01"W on the South line of said Tract "A" a distance of 5.00 feet; thence N01°33'49"E a distance of 2276.20 feet to POINT OF BEGINNING.

AND

Tracts A, B & C of Replat of Prairie Wind First Plat, located in the Northwest Quarter (NW 1/4) of Section Fifteen (15), Township 24 South, Range 32 West of the 6th P.M., in Finney County, Kansas. Except: A tract of land lying in the Northwest Quarter (NW 1/4) of Section 15, Township 24 South, Range 32 West of the 6th Principal Meridian, being a part of the Replat of Prairie Wind, First Plat, all in Finney County, Kansas, for the use of Permanent Road Right of Way, and being more particularly described as follows: Commencing at the Southwest (SW) Corner of said Northwest Quarter (NW 1/4); thence N01°40'28"E, on the West line of said Northwest Quarter (NW 1/4) a distance of 490.74 feet to the POINT OF BEGINNING; thence continuing N01°40'28"E a distance of 1488.00 feet to the North line of said Replat; thence S88°10'30"E a distance of 35.00 feet; thence S01°40.28"W, a distance of 1487.99 feet to the South line of Tract "A" of said Replat; thence N88°12.06"W, a distance of 35.00 feet to POINT OF BEGINNING.

Exhibit "B"



2,200 1,100 0 2,200 Feet



(Published in the Garden City Telegram on the \_\_\_\_\_ day of September, 2014)

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION MAKING CERTAIN FINDINGS AND DETERMINATIONS GIVING AUTHORITY TO THE CITY OF GARDEN CITY, KANSAS TO PARTNER WITH CG INVESTMENTS, LLC AND APPLY FOR AND PARTICIPATE IN THE KANSAS MODERATE INCOME HOUSING PROGRAM.**

---

**WHEREAS**, the Kansas Moderate Income Housing (MIH) Request for Proposal (RFP) authorizes any city incorporated in accordance with the laws of the State of Kansas (the "State") with a population of less than 60,000 to apply for loans or grants to cities for infrastructure or housing development in rural areas; and

**WHEREAS**, the Governing Body of such city may adopt a resolution making certain findings giving the city authority to apply for and participate in said RFP; and

**WHEREAS**, the City of Garden City , Kansas ( the "City") has an estimated population of 30,678 and therefore constitutes an eligible city as said term is defined in this RFP; and

**WHEREAS**, based on the Housing Needs Analysis performed by the City, the Governing Body of the City proposes to partner with CG Investments, LLC to develop moderate income housing in accordance with the MIH RFP.

**THEREFORE, BE IT RESOLVED** by the Governing Body of the City of Garden City, Kansas, as follows:

**Section 1.** The Governing Body hereby finds and determines that there is a shortage of quality housing of various price ranges in the City despite the best efforts of public and private housing developers.

**Section 2.** The Governing Body hereby finds and determines that the shortage of quality housing can be expected to persist and that additional financial incentives are necessary in order to encourage the private sector to construct or renovate housing in the City.

**Section 3.** The Governing Body hereby finds and determines that the shortage of quality housing is a substantial deterrent to future economic growth and development in the City.

**Section 4.** The Governing Body hereby finds and determines that the future economic wellbeing of the City depends on the Governing Body providing additional incentives for the construction or renovation of quality housing in the City.

**Section 5.** Based on the findings and determinations contained in Sections 1 through 4 of this Resolution, the Governing Body authorizes the City to partner with CG Investments, LLC to apply for and participate in the RFP, within the boundaries of the real estate legally described and depicted in maps in Exhibits "A" and "B" attached hereto.

**Section 6.** This Resolution shall take effect after its adoption and publication once in the official City newspaper. APPROVED AND PASSED by the Governing Body of the City of Garden City, Kansas, this 2<sup>nd</sup> day of September, 2014.

\_\_\_\_\_  
ROY CESSNA, Mayor

ATTEST:

\_\_\_\_\_  
CELYN N. HURTADO, City Clerk

APPROVED AS TO FORM:

## Exhibit "A"

A Tract of Land in the North Half (N/2) of the Northeast Quarter (NE/4) of Section Five (5), Township Twenty-four (24) South, Range Thirty-two (32) West of the 6th P.M., more particularly described as follows: Commencing at the Northeast corner of Section Five (5); Thence at a bearing based on the highway easement record dated 7/9/81 of South 01°06'00" West along the East line of Section Five (5) for a distance of 880.10 Feet to a found PK nail being the point of beginning; Thence continuing South 01°06'00" West to a found 5/8" diameter R-Bar capped "MLS 1114" a distance of 417.92 Feet; Thence North 88°19'08" West to a found 5/8" diameter R-Bar capped "MLS 1114" and the North-South Half section a distance of 2,641.64 Feet; Thence North 0°58'40" East along the North-South half section line to a found 1/2" diameter R-Bar a distance of 850.49 Feet; Thence South 88°26'32" East along the South line of a Deed recorded in Vol. 59, Page 959 to a found 1/2" diameter R-Bar a distance of 663.01 Feet; Thence South 0°50'32" West to a set 1/2" diameter R-Bar capped "Lot Taylor Kals 665" a distance of 438.52 Feet; Thence South 88°27'00" East partially along the South line of the "Replat of The Trails, first Plat", a distance of 1978.42 Feet to the point of beginning.



**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION AUTHORIZING THE REMOVAL OF MOTOR VEHICLE NUISANCES FROM CERTAIN PROPERTIES IN THE CITY OF GARDEN CITY, KANSAS, PURSUANT TO SECTION 38-63 OF THE CODE OF ORDINANCES OF THE CITY OF GARDEN CITY, KANSAS.**

**WHEREAS**, the Governing Body of the City of Garden City has declared it unlawful for any person to maintain a motor vehicle nuisance on private property within the City of Garden City, and

**WHEREAS**, the residents and/or owners of the private property at the addresses listed herein have been notified pursuant to Section 38-63 of the Code of Ordinances and have neither abated the nuisance conditions nor requested a hearing before the Governing Body.

**NOW THEREFORE, BE IT RESOLVED** by the Governing Body of the City of Garden City, Kansas:

**SECTION 1.** Ten (10) days after passage of this Resolution the Public Officer is hereby authorized to abate the following motor vehicle nuisance conditions:

*225 Inge Avenue- Inoperable and/or unregistered vehicle-White Motor Home*

**SECTION 2.** The abatement costs incurred by the City shall be charged against the lots or parcels of ground on which the motor vehicle nuisance is located.

**PASSED AND APPROVED** by the Governing Body of the City of Garden City, Kansas, on this 2<sup>nd</sup> day of September, 2014.

\_\_\_\_\_  
**MAYOR**

**ATTEST:**

\_\_\_\_\_  
**Celyn N. Hurtado, CITY CLERK**



(Published in The Garden City Telegram on the \_\_\_\_\_ day of \_\_\_\_\_, 2014)

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION AUTHORIZING THE REMOVAL OF NUISANCE CONDITIONS FROM THE PROPERTY LISTED BELOW IN THE CITY OF GARDEN CITY, KANSAS, PURSUANT TO SECTION 38-139 OF THE CODE OF ORDINANCES OF THE CITY OF GARDEN CITY, KANSAS.**

**WHEREAS**, the Governing Body of the City of Garden City has declared it unlawful for any person to maintain nuisance conditions on private property within the City of Garden City, and

**WHEREAS**, the resident and/or owners of the private property at the address listed herein have been notified pursuant to Section 38-137 of the Environmental Code of Ordinances and have neither abated the nuisance conditions nor requested a hearing before the Governing Body.

**NOW THEREFORE, BE IT RESOLVED** by the Governing Body of the City of Garden City, Kansas:

**SECTION 1.** Ten (10) days after passage of this Resolution, and after notification of person in violation by one of the methods prescribed in Section 38-139, the Public Officer is hereby authorized to abate the following nuisance conditions:

*601 Howerton Place - Trash on property  
207 S. 4<sup>th</sup> Street- Tree branches, trash, scrap metal & concrete on property*

**SECTION 2.** The abatement costs incurred by the City shall be charged against the lot or parcel of ground on which the nuisance is located.

**PASSED AND APPROVED** by the Governing Body of the City of Garden City, Kansas, on this 2nd day of September, 2014.

\_\_\_\_\_  
**Roy Cessna, MAYOR**

**ATTEST:**

\_\_\_\_\_  
**Celyn N. Hurtado, CITY CLERK**

**601 HOWERTON**



**207 S. 4<sup>TH</sup> STREET**





## MEMORANDUM

**TO:** Governing Body  
**FROM:** Matt Allen, City Manager  
**DATE:** August 29, 2014  
**RE:** Creation of a Community Health Advisory Board

---

### CITY COMMISSION

ROY CESSNA,

Mayor

MELVIN L. DALE

JANET A. DOLL

DAN FANKHAUSER

J. CHRISTOPHER LAW

MATTHEW C. ALLEN  
City Manager

MELINDA A. HITZ, CPA  
Finance Director

RANDALL D. GRISELL  
City Counselor

### Issue

The Governing Body is asked to rescind the resolution adopted at the previous meeting and consider and approve resolution creating a Community Health Advisory Board.

### Background

The City Commission approved a resolution at the previous meeting which referenced in the packet a preliminary draft resolution. While the presentation of the item explained the intent of creating the new advisory board, the preliminary draft gave the board a much different scope of work, including some areas which ended up being assigned to the Public Utilities Advisory Board. The City Commission is asked to rescind the resolution adopted at the last meeting and adopt a new one to ensure the two advisory boards understand the scope of issues they are to review.

### Alternatives

1. Rescind and Approve the enabling resolution.
2. Do not approve the enabling resolution.

### Recommendation

Staff recommends Alternative 1.

### Fiscal Note

There would be nominal expenses related to the operation of these volunteer advisory boards.

### CITY ADMINISTRATIVE

CENTER

301 N. 8<sup>TH</sup>

P.O. Box 998

GARDEN CITY, KS

67846-0998

620.276.1160

FAX 620.276.1169

[www.garden-city.org](http://www.garden-city.org)

A RESOLUTION PROVIDING FOR THE CREATION, MEMBERSHIP, STRUCTURE AND RESPONSIBILITIES OF A COMMUNITY HEALTH ADVISORY BOARD TO ADVISE THE GOVERNING BODY OF THE CITY OF GARDEN CITY, KANSAS, WITH REGARD TO POLICY ISSUES INVOLVING COMMUNITY HEALTH, ESPECIALLY AS IT RELATES TO THE BUILT ENVIRONMENT.

WHEREAS, since 1991, the State of Kansas has fallen from the 8<sup>th</sup> healthiest state to the 27<sup>th</sup> healthiest state.

WHEREAS, The 2012 County Health Rankings ranked Finney County 20<sup>th</sup> in Health Outcomes and 93<sup>rd</sup> in Health Factors

WHEREAS, the City of Garden City recognizes and accepts its role as policy leader in addressing community health issues in this community and all of Southwest Kansas, and

the City of Garden City recognizes that many entities within the community seek to improve community health and wish to provide a venue for them to work with the City on projects and policies to improve community health,

NOW, THEREFORE, BE IT RESOLVED, by the Governing Body of the City of Garden City, Kansas:

SECTION I: That it is advisable, desirable, and in the overall interest of the City of Garden City, Kansas, to create and establish a City Community Health Advisory Board, (hereinafter referred to as "the Board") which shall act in an advisory capacity to the Governing Body of the City, and as otherwise requested by the Governing Body of the City, on policy matters and programs as they relate to community health and physical environment.

SECTION II: That the membership of the board shall be composed of representation from the community including, but not limited to, the Finney County Community Health Coalition, Finney County Health Department, another health service agency, with a total of nine (9) representatives, appointed for three (3) year terms by the Mayor of the City with the advice and consent of the Board of Commissioners, provided that when initial appointments are made, three (3) shall be for terms which expire January 1, 2016, three (3) shall be made for terms which expire January 1, 2017, and three (3) shall be for terms which expire January 1, 2018. Thereafter all appointments shall be for three (3) years.

SECTION III: That the Board shall convene in a place and time designated by the Mayor of the City of Garden City, Kansas. At such meeting the Board shall elect a Chairperson for an initial term which expires January 1, 2016. A Chairperson shall be elected for term of two (2) years thereafter. Other officers may be elected, bylaws adopted, and the time and place for future meetings set, by action of a quorum of the Board. A quorum shall consist of five (5) members.

SECTION IV: That the City Manager of the City of Garden City shall appoint a staff member to serve as City liaison to the Board. The staff member shall assist the Board in the performance of its duties, and shall notify members of the date, time and place of the meetings of the Board.

SECTION V: That the Board may act in an advisory capacity on issues relating to community health, including but not limited to, promoting healthy initiatives within the community and matters of healthy community design.

SECTION VI: That the Board shall report and make recommendations to the Governing Body of the City of Garden City at regularly scheduled meetings of the Governing Body, not less than twice each calendar year, commencing in 2015.

SECTION VII: That this resolution shall be effective on the date approved and adopted below.

APPROVED AND ADOPTED by the Governing Body of the City of Garden City, Kansas, this 19<sup>th</sup> day of August, 2014.

---

Roy Cessna, Mayor

---

Celyn N. Hurtado, City Clerk

# Old Business

# New Business

# Consent Agenda



**COMMUNITY  
DEVELOPMENT  
DEPARTMENT**  
SERVING THE  
CITIES OF  
GARDEN CITY  
HOLCOMB  
AND  
FINNEY COUNTY  
620-276-1170

INSPECTIONS  
620-276-1120  
[inspection@garden-city.org](mailto:inspection@garden-city.org)

CODE  
ENFORCEMENT  
620-276-1120  
[code@garden-city.org](mailto:code@garden-city.org)

PLANNING AND  
ZONING  
620-276-1170  
[planning@garden-city.org](mailto:planning@garden-city.org)

CITY ADMINISTRATIVE  
CENTER  
301 N. 8<sup>TH</sup>  
P.O. BOX 998  
GARDEN CITY, KS  
67846-0499  
620.276.1170  
FAX 620.276.1173  
[www.garden-city.org](http://www.garden-city.org)

## MEMORANDUM

**DATE:** August 27, 2014  
**TO:** Mayor & City Commission  
**FROM:** Kaleb Kentner, Planning & Community Development Director  
**cc:** File  
**RE:** 2014 Vegetation Mowing Applicant

---

**Issue:** 2014 Vegetation Mowing Applications for Code Violations

**Background:** The Community Development Department has received a new application from Mike Komlofske for vegetation mowing for 2014 at the following rates:

Small Lots- \$30/ hour  
Large Lots- \$70/ hour

Lot size is determined by the Code Compliance Officer.

**Alternatives:**

1. City Commission may approve the applicant.
2. City Commission may not approve the applicant.
3. City Commission may take no action.

**Recommendation:** Staff recommends approving Mr. Komlofske's application.

**Fiscal Impact:** Fees assessed through the code compliance process cover the cost of contractors. However, if the violator does not pay fees, the City covers the cost of the contractor until the fee is collected through either collections or through specials assessed to the property.



# Memo

To: Garden City Commission  
From: Kaleb Kentner  
CC: File  
Date: July 15, 2014  
Re: GC2014-48: Plat of the Giardino Addition

---

**ISSUE:** Consideration of the plat of the Giardino Addition.

**BACKGROUND:** At the request of Ken Parks, the Commission is asked to approve the plat of the Giardino Addition. This plat combines the parcels located at 125 Pine Street and 114 W. Stevens Avenue into one parcel. There are no right of way dedications for this plat.

The plat has gone through site plan review and an eight by eleven (8x11) foot Public Electric Easement will be required along the south portion of the 114 W. Stevens Avenue parcel.

**ALTERNATIVES:** The Commission may:

1. Approve the plat.
2. Not approve the plat.

**RECOMMENDATION:** Staff recommends approval of the plat with the addition of the required utility easements.

**PLANNING COMMISSION RECOMMENDATION:** The Planning Commission recommended approval of the plat.

**Present- 6**  
**Yea- 6**  
**Nay- 0**

COMMUNITY  
DEVELOPMENT  
DEPARTMENT  
SERVING  
GARDEN CITY  
HOLCOMB  
AND  
FINNEY COUNTY  
620-276-1170

**INSPECTIONS**  
620-276-1120  
[inspection@garden-city.org](mailto:inspection@garden-city.org)

**CODE COMPLIANCE**  
620-276-1120  
[code@garden-city.org](mailto:code@garden-city.org)

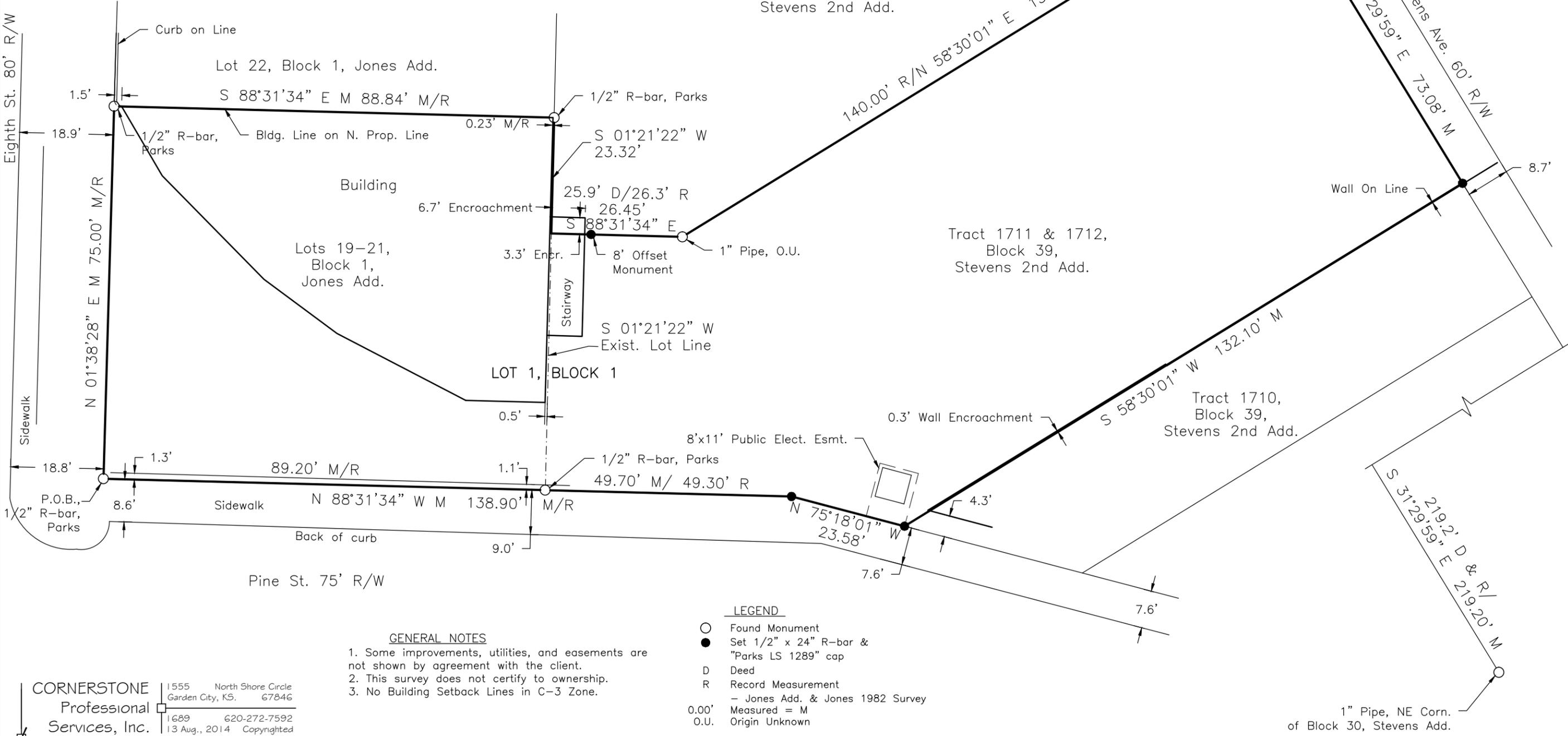
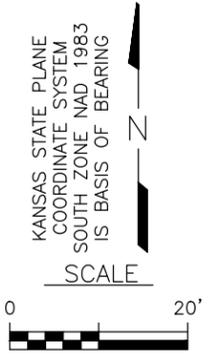
**PLANNING AND  
ZONING**  
620-276-1170  
[planning@garden-city.org](mailto:planning@garden-city.org)

CITY ADMINISTRATIVE  
CENTER  
301 N. 8<sup>TH</sup>  
P.O. Box 998  
GARDEN CITY, KS  
67846-0998  
620.276.1170  
FAX 620.276.1173  
[www.garden-city.org](http://www.garden-city.org)

# GIARDINO ADDITION

A REPLAT OF LOTS 19-21, BLOCK 1, JONES ADDITION,  
and TRACTS 1711-1712, BLOCK 39, STEVENS 2ND ADDITION,  
In the North Half of Section 18,  
Township 24 South, Range 32 West of the 6th P.M.,  
Garden City, Finney County, Kansas

Boundary Closure Information:  
Closure Error = 0.01  
Error Bearing = S 64°01'03" W  
Closure Precision = 1 in 55,867



GENERAL NOTES  
1. Some improvements, utilities, and easements are not shown by agreement with the client.  
2. This survey does not certify to ownership.  
3. No Building Setback Lines in C-3 Zone.

LEGEND  
○ Found Monument  
● Set 1/2" x 24" R-bar & "Parks LS 1289" cap  
D Deed  
R Record Measurement  
- Jones Add. & Jones 1982 Survey  
0.00' Measured = M  
O.U. Origin Unknown

**CORNERSTONE Professional Services, Inc.**  
1555 North Shore Circle  
Garden City, KS. 67846  
1689 620-272-7592  
13 Aug., 2014 Copyrighted

# GIARDINO ADDITION

A REPLAT OF LOTS 19-21, BLOCK 1, JONES ADDITION,  
and TRACTS 1711-1712, BLOCK 39, STEVENS 2ND ADDITION,  
In the North Half of Section 18,  
Township 24 South, Range 32 West of the 6th P.M.,  
Garden City, Finney County, Kansas

## PLAT LEGAL DESCRIPTION:

Lots 19-21, Block 1, Jones Addition (see Deed in Book 313, Page 561), and Tracts 1711-1712, Block 39, Stevens 2nd Addition (see Deed in Book 316, Page 131), Garden City, Finney County, Kansas, more particularly described as follows:

Beginning at the Southwest corner of said Lot 19 being a found 1/2" R-bar, Parks;  
thence North 01°38'28" East on the West line of said Lots 19-21 a distance of 75.00 feet to a found 1/2" R-bar, Parks;  
thence South 88°31'34" East on the North line of said Lot 21 a distance of 88.84 feet to a found 1/2" R-bar, Parks;  
thence South 01°21'22" West on the East line of said Lots 20-21 a distance of 23.32 feet referenced by a set 1/2" R-bar, Parks, offset 8 feet East;  
thence South 88°31'34" East on the North line of said Tract 1712 a distance of 26.45 feet to a found 1" Pipe, origin unknown;  
thence North 58°30'01" East on the North line of said Tract 1712 a distance of 139.89 feet to a set 1/2" R-bar, Parks cap typical;  
thence South 31°29'59" East on the Southwest Right of Way Line of Stevens Avenue a distance of 73.08 feet to a set 1/2" R-bar;  
thence South 58°30'01" West on the South line of said Tract 1711 a distance of 132.10 feet to a set 1/2" R-bar;  
thence North 75°18'01" West on the South line of said Tract 1711 a distance of 23.58 feet to a set 1/2" R-bar;  
thence North 88°31'34" West on the South line of said Tract 1711 and Lot 19 a distance of 138.90 feet to the point of beginning, containing 0.4 acres, more or less.

## SURVEYOR'S CERTIFICATION

This is to certify to the best of my knowledge that the survey of the described land division is accurately represented on this plat.

\_\_\_\_\_  
Ken Parks, LS No. 1289

## COUNTY SURVEYOR'S CERTIFICATION

This plat has been examined this \_\_\_\_\_ day of \_\_\_\_\_, 2014, for compliance with K.S.A. 58-2005.

\_\_\_\_\_  
Vernon L. Cress, LS No. 899,  
County Surveyor

## OWNER'S CONSENTS AND DEDICATION

KNOW ALL MEN BY THESE PRESENTS that We, the undersigned, being the sole proprietors and owners of the land included within the plat shown hereon, are the only persons whose consents are necessary to pass clear title to said land and We hereby consent to the making and recording of said plat. The public electric utility easement is hereby dedicated to the public for such public uses.

IN WITNESS WHEREOF this consent is executed this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Francesco Dorigo, Trustee  
Francesco Dorigo Trust

\_\_\_\_\_  
Teresa Dorigo, Trustee  
Francesco Dorigo Trust

State of Kansas ss.  
Finney County

These consents and dedication were acknowledged before me, the undersigned officer, by Francesco Dorigo and Teresa Dorigo, Trustees of the Francesco Dorigo Trust this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public (Seal)  
My commission expires \_\_\_\_\_

## HOLCOMB/GARDEN CITY/FINNEY COUNTY AREA PLANNING COMMISSION

State of Kansas ss.  
Finney County

This plat has been reviewed and is hereby approved this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Ken Rishel, Chairman

\_\_\_\_\_  
Kaleb Kentner, Secretary

## THE CITY OF GARDEN CITY, KANSAS

State of Kansas ss.  
Finney County

This public electric utility easement is accepted by the Governing Body of the City of Garden City, Kansas, as shown on this plat, is hereby dedicated this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Roy Cessna, Mayor

\_\_\_\_\_  
Attest: Celyn Hurtado, City Clerk

**LEASE AGREEMENT**

This Lease Agreement (Lease Agreement) made and entered into this 29<sup>th</sup> day of August, 2014, by and between Carole J. Corley and Dale J. Gabel, (Lessor), and the City of Garden City, Kansas, a municipality (Lessee).

WITNESSETH:

For and in consideration of the mutual covenants herein contained, it is agreed as follows:

1. **REAL PROPERTY.** Lessor hereby leases to Lessee, and Lessee hereby takes and rents from Lessor upon the terms and conditions herein stated, the following described real property, to wit:

112 Pine Street, Garden City, Finney County, Kansas,  
containing 1,375 square feet. (Leased Premises)

2. **TERM.** The term of this Lease Agreement shall be for three (3) years and four (4) months, commencing on the 1<sup>st</sup> day of September, 2014, and ending on the 31<sup>st</sup> day of December, 2017. This Lease Agreement shall automatically renew for additional one (1) year terms on all of the terms and conditions set forth herein, unless terminated by either party, for any reason, by giving a written termination notice at least ninety (90) days prior to the expiration date of the initial or any renewal term of this Lease Agreement.

3. **RENT.** Lessee agrees to pay to Lessor as rent, the following amounts:

- (a) Sixteen Thousand Five Hundred Dollars (\$16,500.00), encompassing the entire first twelve (12) months' rent (i.e. September 1, 2014 through August 31, 2015);
- (b) One Thousand Three Hundred Seventy-five Dollars (\$1,375.00) per month from September 1, 2015 through December 31, 2017;
- (c) Beginning December 31, 2017, monthly rent for any annual renewal term of this Lease Agreement shall be annually adjusted based upon the increase, if any, in the cost of living, as measured by the Consumer Price Index (CPI), Midwest—Size Class D—Cities Under 50,000, Not Seasonally Adjusted, published by the Bureau of Labor Statistics of the United States Department of Labor. The index number to be utilized for determination of the cost of living increase shall be the index number entitled "All Items".

To calculate rent for each renewal term, the monthly rent during the immediately preceding annual term shall be multiplied by the annual cost of living percentage increase, if any, for the previous year (January to December) and the resulting amount shall be the additional rent due per month during the specified period. Regardless of the actual increase in the cost of living during any annual period, the maximum increase in rent may not exceed five percent (5%) of the previous term's monthly rent.

In the event the CPI is discontinued or transferred to any other governmental department, bureau, or agency, a comparable index agreed upon by the parties shall be utilized.

Rent shall be due on the 1<sup>st</sup> day of each month, and payments shall be forwarded to Lessor at the following address: 612 Center Street, Garden City, Kansas 67846, or such other address as may be given to Lessee by Lessor.

4. ALTERATIONS TO LEASED PREMISES. No material alterations shall be made to the Leased Premises by Lessee, unless approved by Lessor.

5. MAINTENANCE. Lessee shall be responsible for any and all maintenance necessary to keep the Leased Premises in a clean and neat condition. The Leased Premises shall be kept by Lessee in a neat and orderly fashion. Lessor shall be responsible for maintenance, repair, and replacement of all major items on or at the Leased Premises, including but not limited to, plumbing, heating and air conditioning, exterior coverings or paint, windows, roof, and flooring; PROVIDED, HOWEVER, Lessee shall be solely responsible for any repair or replacement for damage occurring as a result of the negligence, acts, or omissions of Lessee, its employees, or the public utilizing the Leased Premises. Lessee agrees that no smoking will be allowed in the Leased Premises.

6. UTILITIES. Lessee shall be responsible for all charges for electricity, water, gas, cable, internet, and telephone services consumed on the Leased Premises.

7. INSURANCE. Lessor agrees to keep the Leased Premises insured against loss or damage by fire or other casualties, although Lessee shall not be named as a loss payee or insured. Lessee shall be responsible for insurance on its personal property and any and all contents in or located on the Leased Premises. Lessee shall also maintain general liability insurance.

8. DAMAGE BY FIRE OR OTHER CASUALTY. Lessee shall use every precaution against fire, and shall, in case of fire or other casualty for which Lessee is not under an obligation to repair, immediately notify Lessor, who shall, unless the structure is so damaged that Lessor shall decide not to repair or rebuild, thereupon cause the damage to be promptly repaired. If the Leased Premises are so destroyed or damaged that Lessor decides not to repair or rebuild, either temporarily or permanently, then the term of this Lease Agreement shall cease as of the date upon which the casualty occurred, with no further obligation of either party hereunder to recognize this Lease Agreement if the structure is later rebuilt. If Lessor decides to rebuild or repair, then the rent during the restoration period shall abate in proportion and to the extent the Leased Premises had been rendered untenable by the casualty.

9. POSSESSION AT TERMINATION. Lessee agrees to surrender to Lessor at the termination of this Lease Agreement, whether by lapse of time or otherwise, the keys and peaceable possession of the Leased Premises, in good order, condition, maintenance and repair, ordinary wear and tear excepted.

10. QUIET ENJOYMENT. Lessor acknowledges that this instrument creates a leasehold interest. Lessor covenants that it has the lawful right to enter into this Lease Agreement and, so long as Lessee pays the rent required to be paid and performs the obligations and duties required to be performed or observed on the part of Lessee, Lessee shall and will peaceably and quietly have, hold and enjoy the Leased Premises for the term hereof.

11. DEFAULT. If Lessee should default on the payment of any installment of rent or any other sum due hereunder, or in performance of any other covenant, term or condition to be performed by Lessee hereunder and any such default in performance shall continue for thirty (30) days after written notice thereof from Lessor to Lessee, or if Lessee should vacate or abandon the Leased Premises, then in any such event, Lessor shall be entitled to possession of the Leased Premises, with or without force or legal process, and to expel Lessee and all persons claiming under Lessee. Lessor shall have the further right at its option, upon or after the occurrence of any such event giving it right of re-entry as aforesaid, to cancel and terminate this Lease Agreement or to relet the Leased Premises or any part thereof, after due notice to Lessee and for such rent as shall be acceptable to Lessor. Lessee agrees that notwithstanding possession regained and whether Lessor shall elect to cancel or terminate this Lease Agreement or relet the Leased Premises or any part thereof, Lessee shall remain liable to pay Lessor any damage or loss of rent which Lessor may then or thereafter suffer to the full extent of the term hereof. Lessor considers all the terms and conditions of this Lease Agreement imposed upon Lessee to be material, and a breach of any term or condition of the Lease Agreement by Lessee, may be considered a material breach in the opinion of Lessor.

12. ASSIGNMENT/SUBLETTING. Lessor and Lessee have entered into this Lease Agreement in conjunction with Lessee's expectation of entering into a Sublease Agreement with Kansas WorkforceONE ("Sublease Agreement") wherein the Leased Premises described herein shall be subleased to Kansas WorkforceONE for the same term as enumerated in this Lease Agreement. The Lessor and Lessee agree that in the event the Sublease Agreement is terminated for any reason, the term of this Lease Agreement shall be terminated within ninety (90) days of the termination of the Sublease Agreement. In the event the Sublease Agreement is terminated, Lessor waives the ninety (90) day notice requirement enumerated in Paragraph 2 above and hereby agrees to a thirty (30) day notice of termination. The Lessor and Lessee further agree that in the event the Sublease Agreement is not executed and finalized by the parties thereto, this Lease Agreement shall be terminated immediately and Lessee shall be responsible for only One-fourth (1/4) of the first term, such that Lessee shall pay no more and no less than Four Thousand One Hundred Twenty-Five Dollars (\$4,125.00) in total rent. Further, should the Sublease Agreement fail to be executed and finalized, Lessee shall be entitled to a return of the remaining Three-fourths (3/4) of the first term's rent, such that Lessee shall be refunded Twelve Thousand Three Hundred Seventy-five Dollars (\$12,375.00).

13. TAXES/ASSESSMENTS. Lessor shall be responsible for payment of all real property taxes and special assessments on the Leased Premises, subject to paragraph 14 of this Lease Agreement.

14. REAL PROPERTY TAX ADJUSTMENT. Lessee agrees to reimburse Lessor for any increase in real property taxes assessed against the Leased Premises, utilizing the taxes assessed for 2013 in the amount of Two Thousand Three Hundred Fifty and .16/1.00s Dollars (\$2,350.16) as the base year amount. Lessee shall pay Lessor the increase in real property taxes within sixty (60) days of receipt of an invoice from Lessor, together with copies of the current year's tax assessment from the Finney County Treasurer.

15. TERMINATION. Lessee agrees to remove, at the termination of this Lease Agreement, such of Lessee's goods and effects as are not permanently affixed to the Leased Premises; to remove such of the alterations and additions made by Lessee as Lessor may request; to repair any damage required by such removal; and to peaceably yield up to Lessor all keys to the Leased Premises, and the Leased Premises and alterations and additions thereto in clean and good order, repair and condition.

16. LIENS. Lessee shall not permit or allow the attaching of any mechanic's or materialman's lien, or any other lien or encumbrance, to the Leased Premises.

17. STRICT COMPLIANCE WITH LAWS. Lessor and Lessee agree to observe and obey, during the term of this Lease Agreement, any and all laws, ordinances, rules, and regulations which have been or may be enacted or promulgated by the United States, State of Kansas, or any other governmental agency or entity having jurisdiction over the Leased Premises.

18. GENERAL COVENANTS.

(a) All notices required or which may be given hereunder shall be considered as property given if delivered in writing, personally, or sent by certified mail, postage prepaid, addressed as follows:

(1) If to Lessor: Carole J. Corley  
Dale J. Gabel  
612 Center Street  
Garden City, Kansas 67846

(2) If to Lessee: City Manager  
Box 499  
Garden City, Kansas 67846

Notices served by mail shall be deemed to be given on the date on which such notice is deposited in the United States mail.

- (b) This instrument incorporates all of the obligations, agreements and understandings of the parties hereto, and there are no oral agreements or understandings between the parties hereto concerning the Leased Premises or any subject covered by this Lease Agreement.
- (c) This Lease Agreement may be amended, changed, or modified, only upon the written consent of all the parties.
- (d) This Lease Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, and personal representatives and permitted assigns.
- (e) This Lease Agreement shall be construed in accordance with the laws of the State of Kansas.

IN WITNESS WHEREOF, the parties have set their hand and executed this Lease Agreement the day and year first above written.

ATTEST:

\_\_\_\_\_  
Celyn L. Hurtado

**LESSOR:**

  
\_\_\_\_\_  
Carole J. Corley

  
\_\_\_\_\_  
Dale J. Gabel

**LESSEE:**

\_\_\_\_\_  
Roy Cessna, Mayor  
City of Garden City, Kansas



# Memo

To: City Commission  
From: Kaleb Kentner  
CC: Randy Partington and Robin Pena, File  
Date: August 29, 2014  
Re: Interlocal Agreement for Planning & Community Development Services between the City of Garden City and the City of Holcomb and Finney County

COMMUNITY  
DEVELOPMENT  
DEPARTMENT  
SERVING  
GARDEN CITY  
HOLCOMB  
AND

FINNEY COUNTY  
620-276-1170

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**ISSUE:** Governing Body consideration and approval of an Interlocal Agreement for Planning & Community Development Services between the City of Garden City and the City of Holcomb and Finney County.

**BACKGROUND:** The interlocal agreements were last updated and adopted in February of 2011. The review is necessary due to the adoption of the 2009 International building codes and amendments to chapter 18 of the building code. The document was also reviewed for grammatical and formatting items. No changes were made to fees.

**ALTERNATIVES:**

1. Adopt the interlocal agreements.
2. Amend the interlocal agreements.
3. Take no action and maintain the existing agreements.

**RECOMMENDATION:** Staff would recommend Alternative 1. Adopt the interlocal agreements.

CITY ADMINISTRATIVE  
CENTER  
301 N. 8<sup>TH</sup>  
P.O. Box 998  
GARDEN CITY, KS  
67846-0998  
620.276.1170  
FAX 620.276.1173  
[www.garden-city.org](http://www.garden-city.org)

**INTERLOCAL AGREEMENT BETWEEN  
THE CITY OF GARDEN CITY, KANSAS  
AND THE CITY OF HOLCOMB, KANSAS**

THIS INTERLOCAL AGREEMENT (Agreement) made and entered into this \_\_\_\_ day of August, 2014, by and between the CITY OF GARDEN CITY, KANSAS, a municipal corporation (CITY), and the CITY OF HOLCOMB, KANSAS (HOLCOMB).

WHEREAS, it is the desire of CITY and HOLCOMB to make the most efficient use of their powers by cooperating to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of the community; and

WHEREAS, CITY and HOLCOMB have expressed a desire to consolidate resources and services to provide for uniformity in building codes and building code inspection and enforcement, and planning and zoning in CITY, HOLCOMB; and

NOW, THEREFORE, in consideration of the terms and conditions set forth below, the parties agree as follows:

1. **DEFINITIONS.** The following definitions shall apply to this Agreement:

Building Codes - Any and all codes incorporating by reference the 2009 Editions of the following: International Building Code, International Residential Code, International Existing Building Code, ICC Performance Code for Buildings and Facilities, ICC Electrical Code—Administrative Provisions, International Plumbing Code, International Mechanical Code, International Fuel Gas Code, and the 1997 Uniform Housing Code, as they may be amended from time to time by CITY.

2. **AUTHORITY TO CONTRACT.** CITY and HOLCOMB possess the power, privilege, and/or authority to enter into this Agreement pursuant to K.S.A. 12-101, K.S.A. 12-2908, and the Kansas Constitution, Article 12, Sec. 5.

3. **ADOPTION.** CITY and HOLCOMB shall take all appropriate action to adopt and approve this Agreement by ordinance, resolution, or motion.

4. **DURATION.** This Agreement shall be for a term of one (1) year beginning on the effective date of January 1, 2015 and ending December 31, 2015. This Agreement shall automatically be renewed for one (1) year terms, unless either party gives the other party notice of intent to terminate by October 1<sup>st</sup> of the last year of the original or any renewal term.

5. **SEPARATE ENTITY/ADMINISTRATION.** It is not the intent of CITY and HOLCOMB to create a separate legal or administrative entity to perform the functions of this Agreement. The City Manager of CITY and the City Administrator of HOLCOMB shall be responsible for administration of this Agreement, subject to approval by the governing bodies of CITY and HOLCOMB.

6. **MANNER OF FINANCING.** The manner of financing to support the purpose of this Agreement shall be through expenditure of general funds as appropriated annually by CITY and/or HOLCOMB.

7. **TERMINATION.** This Agreement may be terminated by either party, for any reason, by giving not less than ninety (90) days written notice to the other party.

8. **REVIEW.** The parties agree to review this Agreement in June of each year, to determine if any mutually agreed revisions need to be made to the Agreement, including but not limited to any revisions for credits or payments due hereunder.

9. **DEFAULT.** Should a party fail to abide by the terms and conditions of this Agreement, the other party may declare a default and thereafter, give written notice of intent to terminate by reason of default, said notice to be not less than ninety (90) days. This Agreement shall not limit in any manner, the legal rights or remedies a party might have in the event of a default.

10. **PURPOSE.** The purpose of this Agreement is to provide for the consolidation and coordination of, (a) building code inspection and enforcement of building codes in CITY and HOLCOMB to include the function of Planning & Zoning, and subdivision regulation as specified herein, (b) the other specifically designated codes, regulations, or functions set forth below. The specific responsibilities of each of the parties shall be as follows:

**CITY:**

- (a) CITY shall assume all responsibility for building code inspection and enforcement in CITY. CITY shall issue all licenses, permits, and collect all applicable fees.
  - CITY shall also assume all responsibility for building code inspection and enforcement and the issuance of licenses, permits and collection of all applicable fees for all areas of HOLCOMB, for all commercial, public, and/or industrial facilities.
- (b) All fees paid for licenses, permits, or any other assessment, shall be the sole property of CITY. Fees applicable in HOLCOMB for mileage, and additional or recall inspections, shall be approved by HOLCOMB.
- (c) All personnel involved in building code inspection and enforcement shall be employees of CITY, under the exclusive direction and control of CITY.
- (d) CITY shall administer and enforce the Floodplain Regulations within HOLCOMB, with assistance provided by HOLCOMB as set forth in this Agreement.
- (e) CITY shall provide staff support to the HOLCOMB Board of Zoning Appeals.
- (f) CITY shall continue to update and revise the field survey of all areas to determine proper land use of public and private real property in accordance with all controlling land use and zoning plans, rules, and regulations. The field survey by CITY shall be performed on a continual basis.
- (g) CITY shall timely enforce all applicable building codes and respond in a timely manner to all complaints and alleged violations of building codes. CITY agrees that building codes shall be equally enforced throughout the inspection area.
- (h) CITY agrees to allow HOLCOMB residents to be appointed to the Building Safety Board of Appeals.

- (i) CITY personnel involved in code inspection and enforcement shall provide citizens with opinion cards or forms so that citizens can report their opinions on the services provided by CITY personnel. CITY shall provide HOLCOMB with periodic reports of the opinions of citizens.
- (j) City shall provide updated digital maps pertaining to HOLCOMB Comprehensive Plan and HOLCOMB Zoning.

**HOLCOMB:**

- (aa) HOLCOMB shall adopt Chapter 18 of the Code of Ordinances of the City of Garden City, Kansas.
- (bb) HOLCOMB shall take the necessary action to empower and authorize employees of CITY to carry out and enforce Chapter 18 of the Code of Ordinances of the CITY, as it exists at the time of approval of this Agreement or as it may be amended from time to time, and HOLCOMB zoning ordinances and regulations, to the extent of CITY's responsibilities set forth in paragraph 10(a) above.
- (cc) HOLCOMB shall annually pay on or before June 1st of each year to CITY, the amount of Forty-two Thousand Dollars (\$42,000), to cover a portion of the expenses of City's Community Development Department. The payment amount shall be based in part upon the salaries, benefits, overtime of building inspectors, and planning services. The payment shall also be used to cover the costs associated with operation of the HOLCOMB Board of Zoning Appeals and the Area Wide Planning Commission.
- (dd) HOLCOMB shall provide to CITY, reproducible Mylar or digital base maps for CITY'S maintenance and creation of maps for planning and zoning functions within HOLCOMB. CITY shall maintain and update, as required, reproducible maps relating to HOLCOMB, Kansas, Comprehensive Plan and HOLCOMB Zoning.
- (ee) HOLCOMB shall provide assistance from the City Administrator in reference to floodplain administration and management.

11. **LEGAL RESPONSIBILITY.** It is not the intent of CITY or HOLCOMB to relieve either party of any obligation or responsibility imposed upon a party by law.

12. **CONTROL OF LEGISLATURE/FUNDING.** The parties acknowledge and agree that this Agreement is subject to change, termination, or limitations, as may be determined by the Legislature of the State of Kansas. In the event sufficient funds shall not be appropriated by CITY or HOLCOMB for any obligations required under the terms and conditions of this Agreement, CITY and/or HOLCOMB may terminate this Agreement pursuant to the notice requirements set forth herein.

13. **EFFECTIVE DATE.** This Agreement shall take effect upon its approval by the City Council of Holcomb, Kansas, and the City Commission of the City of Garden City, Kansas.

14. **PREVIOUS INTERLOCAL AGREEMENT.** The parties agree that this Agreement shall supersede and replace the previous interlocal agreement and shall be deemed to be terminated by the parties as of the effective date of this Agreement.



CITY OF HOLCOMB, KANSAS

By \_\_\_\_\_  
Gary Newman, Mayor

ATTEST:

\_\_\_\_\_  
Robin Pena, City Clerk

STATE OF KANSAS        )  
                                  )        ss.  
COUNTY OF FINNEY    )

BE IT REMEMBERED, that on the \_\_\_\_ day of \_\_\_\_\_, 2010, before me, a Notary Public in and for the County and State aforesaid, came Roy Cessna who is personally known to me to be the same person who executed the foregoing instrument of writing and duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have subscribed my name and affixed my seal as of the day and year last above written.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

STATE OF KANSAS        )  
                                  )        ss.  
COUNTY OF FINNEY    )

BE IT REMEMBERED, that on the \_\_\_\_ day of \_\_\_\_\_, 2010, before me, a Notary Public in and for the County and State aforesaid, came Gary Newman who is personally known to me to be the same person who executed the foregoing instrument of writing and duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have subscribed my name and affixed my seat as of the day and year last above written.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**INTERLOCAL AGREEMENT BETWEEN  
THE CITY OF GARDEN CITY, KANSAS  
AND THE COUNTY OF FINNEY, KANSAS**

**THIS INTERLOCAL AGREEMENT** (Agreement) made and entered into this \_\_\_\_\_ day of August, 2014, by and between the CITY OF GARDEN CITY, KANSAS, a municipal corporation (CITY), and the COUNTY OF FINNEY, KANSAS (COUNTY).

**WHEREAS**, it is the desire of CITY and COUNTY to make the most efficient use of their powers by cooperating to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of the community; and

**WHEREAS**, CITY and COUNTY have expressed a desire to consolidate resources and services to provide for uniformity in building codes and building code inspection and enforcement, and public nuisance abatement in CITY, COUNTY, and the three mile building overlay area around CITY in COUNTY; and

**WHEREAS**, CITY and COUNTY previously entered into agreements dated April 26, 1994, June 19, 1995, June 22, 1999, October 2, 2001, September 14, 2004, May 15, 2006 July 12, 2006, July 23, 2007, June 16, 2008, and February 15, 2011, for such purposes, and such interlocal agreements now must be further revised.

**NOW, THEREFORE**, in consideration of the terms and conditions set forth below, the parties agree as follows:

1. **DEFINITIONS.** The following definitions shall apply to this Agreement:

Building Codes: Any and all codes incorporating by reference the 2009 Editions of the following: International Building Code, International Residential Code, International Existing Building Code, ICC Performance Code for Buildings and Facilities, ICC Electrical Code- Administrative Provisions, International Plumbing Code, International Mechanical Code, and the International Fuel Gas Code, as they may be amended from time to time by CITY.

Inoperable Vehicle: As defined in COUNTY Resolution No. 25-2010.

Public Nuisance: As defined in COUNTY Resolution No. 25-2010.

2. **AUTHORITY TO CONTRACT.** CITY and COUNTY possess the power, privilege, and/or authority to enter into this Agreement pursuant to K.S.A. 12-101, K.S.A. 12-2908 *et seq.*, K.S.A. 19-101, and KS.A. 19-101a, and the Kansas Constitution, Article 12, Sec. 5.

3. **ADOPTION.** CITY and COUNTY shall take all appropriate action to adopt and approve this Agreement by ordinance, resolution, or motion.

4. **DURATION.** This Agreement shall be for a term beginning January 1, 2015 and ending December 31, 2015. This Agreement shall automatically be renewed for one (1) year terms, unless either party gives the other party notice of intent to terminate by July 1st of the original term or any renewal term.

5. **SEPARATE ENTITY/ADMINISTRATION.** It is not the intent of CITY and COUNTY to create a separate legal or administrative entity to perform the functions of this Agreement. The City Manager of CITY and the County Administrator of COUNTY shall be responsible for administration of this Agreement, subject to approval by the governing bodies of CITY and COUNTY.

**6. MANNER OF FINANCING.** The manner of financing to support the purpose of this Agreement shall be through expenditure of general funds as appropriated annually by CITY and/or COUNTY.

**7. TERMINATION.** This Agreement may be terminated by either party, for any reason, at the end of any annual term, by giving not less than one hundred eighty (180) days written notice to the other party.

**8. REVIEW.** The parties agree to review this Agreement in June 2015, and each June thereafter, to determine if any mutually agreed revisions need to be made to the Agreement, including but not limited to any revisions for credits or payments due hereunder.

**9. DEFAULT.** Should a party fail to abide by the terms and conditions of this Agreement, the other party may declare default and thereafter, give written notice of intent to terminate by reason of default, said notice to be not less than ninety (90) days. This Agreement shall not limit in any manner, the legal rights or remedies a party might have in the event of default.

**10. PURPOSE.** The purpose of this Agreement is to provide for the consolidation and coordination of, (a) building code inspection and enforcement of building codes in CITY and COUNTY to include the functions of planning, zoning, and subdivision regulation as specified herein, (b) public nuisance complaint investigation and abatement, and (c) the other specifically designated codes, regulations, or functions set forth below. The specific responsibilities of each of the parties shall be as follows:

**CITY:**

- (a) CITY shall assume all responsibility for building code inspection and enforcement in CITY and COUNTY. CITY shall issue all licenses, permits, and collect all applicable fees.
  - CITY shall also assume all responsibility for building code inspection and enforcement and the issuance of licenses, permits and collection of all applicable fees for all areas of COUNTY, including all residential, commercial, public, and/or industrial facilities not otherwise exempt under paragraph 11 of this Agreement.
- (b) All fees paid for licenses, permits, or any other assessments, shall be the sole property of CITY. Fees applicable in County for mileage, and additional or recall inspections, shall be approved by County.
- (c) All personnel involved in building code inspection and enforcement shall be employees of CITY, under the exclusive direction and control of CITY.
- (d) CITY shall administer and enforce the Floodplain Regulations within COUNTY, with assistance provided by COUNTY as set forth in this Agreement.
- (e) CITY shall administer and enforce the Environmental Code of COUNTY, including new septic tank and system inspection. CITY is authorized to contract with a third party for the services to be provided in this paragraph. Should CITY be unable to contract for these services, CITY and COUNTY shall renegotiate the enforcement of the Environmental Code with COUNTY.

- (f) CITY, through its Code Compliance Officer (Compliance Officer) is designated by COUNTY, and is authorized to act as Compliance Officer, as provided by Finney County Resolution No. 25-2010. At the request of COUNTY, Compliance Officer shall investigate and verify public nuisances, as defined by Resolution No. 25-2010. COUNTY will provide necessary form letters of public nuisance determination, legal advice, and timely prosecution for implementation of Resolution No. 25-2010. It is the intent of the parties that the Compliance Officer employed by CITY shall be involved in implementation of Resolution No. 25-2010. Hearing, abatement, appeal, assessment, and prosecution proceedings and provisions of Resolution No. 25-2010 shall be the exclusive responsibility of COUNTY, although CITY agrees that its Compliance Officer shall participate at the same level of input and cooperation as the employee does for CITY Code Enforcement. The provisions of this paragraph (f) shall be reviewed annually. COUNTY agrees to review the need for additional staff and fiscal support to the administration of Resolution No. 18-2005 should time, expense, utilization of existing personnel and new workload warrant.
- (g) CITY shall provide staff support to the Finney County Board of Zoning Appeals.
- (h) CITY shall continue to update and revise the field survey of all areas of the three-mile building overlay area to determine proper land use of public and private real property in accordance with all controlling land use and zoning plans, rules, and regulations. The field survey by CITY shall be performed on a continual basis.
- (i) CITY shall timely enforce all applicable building codes and respond in a timely manner to all complaints and alleged violations of building codes. CITY agrees that building codes shall be equally enforced throughout the inspection area.
- (j) CITY agrees to allow COUNTY to appoint a representative to the Building Safety Board of Appeals.
- (k) CITY shall provide COUNTY with periodic reports of the opinions of citizens.

**COUNTY:**

- (aa) COUNTY shall adopt Chapter 18 of the Code of Ordinances of the City with the exception of Article VII – Television and Radio Antennas and Article XIII – Housing Code.
- (bb) COUNTY shall take the necessary action to empower and authorize employees of CITY to carry out and enforce Chapter 18 of the Code of Ordinances of CITY, as it exists at the time of approval of this Agreement or as it may be amended from time to time (with the exception of Article VII - Television and Radio Antennas and Article XIII – Housing Code), COUNTY zoning ordinances and regulations, and COUNTY environmental code, in the COUNTY to the extent of CITY's responsibilities set forth in paragraph 10(a) and 10(e) above.
- (cc) COUNTY shall make a monthly payment to CITY to cover a portion of the expenses of CITY's inspection and code enforcement department, in an amount equal to 75% of the average salary and benefits of the Building Inspectors times a factor of .667 to account for one and one-half (1½) inspectors. This payment amount shall be based upon the salaries, benefits and overtime of three (3) building inspectors assigned to the Building Department. Further, the payment calculation shall be based upon the previous twelve (12) months.

- (dd) COUNTY shall take action to abate and/or TIMELY PROSECUTE, through the office of the County Counselor or County Attorney, in the District Court of Finney County, Kansas, all complaint violations of Finney County Resolution No. 25-2010 and all other controlling codes.
- (ee) COUNTY shall provide assistance from the County Assessor and County Engineer, reference the identification of agricultural structures that may be placed in a FEMA Flood Hazard Zone Area after the approval of this Agreement. (Such structures are exempt from building permitting as outlined in Paragraph 11.) Upon notification of a potential structure location, CITY shall evaluate whether the identified structure is in a FEMA Flood Hazard Zone Area. The County Engineer shall provide elevation data on specified structures upon request by CITY, to determine if a structure falls within a FEMA Flood Hazard Zone Area, as established by FEMA and COUNTY.
- (ff) COUNTY shall allow CITY to connect data processing equipment to COUNTY equipment so as to allow CITY access to real property and special assessment records.
- (gg) COUNTY shall make an annual payment to CITY to cover a portion of the expenses of CITY's planning department, for county-wide planning, code enforcement and zoning services, in the following amounts:
1. Planning Services:  
2014 \$44,100.00  
2015 and, each subsequent year thereafter shall increase by 5%.
  2. Code Enforcement Services:  
2014 \$37,485.00  
2015 and, each subsequent year thereafter shall increase by 5%.

This payment shall also be used to cover the cost associated with operation of the Finney County Board of Zoning Appeals. Payment amounts may be evaluated annually as needed based on services rendered.

- (hh) COUNTY shall provide to CITY, reproducible base maps for CITY's maintenance and creation of maps for planning and zoning functions within COUNTY. CITY shall maintain and update, as required, reproducible maps relating to Finney County, Kansas, Comprehensive Plan and Finney County Zoning.

**11. EXEMPTIONS FROM BUILDING CODES.** The parties agree that all individuals and entities engaged in agricultural pursuits, on land designated Agricultural by the Finney County Zoning Regulations, and all commercial feed lots, in the three mile building overlay area and all other areas of COUNTY, shall be exempt from application of the building codes to be enforced by CITY.

**12. LEGAL RESPONSIBILITY.** It is not the intent of CITY or COUNTY to relieve either party of any obligation or responsibility imposed upon a party by law.

**13. CONTROL OF LEGISLATURE/FUNDING.** The parties acknowledge and agree that this Agreement is subject to change, termination, or limitations, as may be determined by the Legislature of the State of Kansas. In the event sufficient funds shall not be appropriated by CITY or COUNTY for any obligations required under the terms and conditions of this Agreement, CITY and/or COUNTY may terminate this Agreement pursuant to the notice requirements set forth herein.

**14. EFFECTIVE DATE.** This Agreement shall take effect on January 1, 2015, and after its approval by the Board of County Commissioners of Finney County, and the City Commission of the City of Garden City, Kansas.

**15. PREVIOUS INTERLOCAL AGREEMENT.** The parties agree that this Agreement shall supersede and replace the previous interlocal agreement of February 15, 2011, which shall be deemed to be terminated by the parties as of the effective date of this Agreement.

**16. GENERAL COVENANTS.**

(a) All notices which are required or which may be given hereunder shall be considered as properly given if delivered in writing, personally, or sent by certified mail, postage prepaid, and addressed as follows:

(1) If to CITY:                   City Manager  
  P. O. Box 998  
  Garden City, Kansas 67846

(2) If to COUNTY:               County Administrator  
  P. O. Box M  
  Garden City, Kansas 67846

Notices served by mail shall be deemed to be given on the date on which such notice is deposited in the United States mail.

(b) This document incorporates all the obligations, agreements, and understandings of the parties hereto, and there are no oral agreements or understandings between the parties hereto concerning the purpose covered by this Agreement.

(c) This Agreement may be amended, changed, or modified, only upon the written consent of both parties.

(d) This Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, and personal representatives and permitted assigns, subject to approval of the governing body of each party.

(e) This Agreement shall be construed in accordance with the laws of the State of Kansas.

IN WITNESS WHEREOF, the parties hereto have approved this Agreement as indicated herein.

CITY OF GARDEN CITY, KANSAS

By \_\_\_\_\_  
Roy Cessna, Mayor

ATTEST:

\_\_\_\_\_  
Celyn N. Hurtado, City Clerk

COUNTY OF FINNEY, KANSAS

By \_\_\_\_\_  
Larry C. Jones, Chairman  
Board of County Commissioners

ATTEST:

\_\_\_\_\_  
Elsa Ulrich, County Clerk

STATE OF KANSAS        )  
                                  )     ss.  
COUNTY OF FINNEY    )

BE IT REMEMBERED, that on the \_\_\_\_ day of \_\_\_\_\_, 2014, before me, a Notary Public in and for the County and State aforesaid, came Roy Cessna, who is personally known to me to be the same person who executed the foregoing instrument of writing and duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have subscribed my name and affixed my seal as of the day and year last above written.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

STATE OF KANSAS        )  
                                  )     ss.  
COUNTY OF FINNEY    )

BE IT REMEMBERED, that on the \_\_\_\_ day of \_\_\_\_\_, 2014, before me, a Notary Public in and for the County and State aforesaid, came Larry C. Jones, who is personally known to me to be the same person who executed the foregoing instrument of writing and duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have subscribed my name and affixed my seat as of the day and year last above written.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

# Other Entities Minutes



**GARDEN CITY REGIONAL AIRPORT  
ADVISORY BOARD MINUTES  
JULY 10, 2014**

**5:30 P.M. MEETING CALLED TO ORDER**

**MEMBERS PRESENT**

Charlie Robinson, Ken Frey, Ed Fischer, Max Meschberger, Bill Jones, and Darin Germann

**MEMBERS ABSENT**

Marlo Miller

**STAFF PRESENT**

Rachelle Powell and Derek Barr

**ITEM 1 PUBLIC COMMENT**

No public comment.

**ITEM 2 APPROVAL OF JUNE 12, 2014 MINUTES**

Ed Fischer had a correction to the June minutes. Ed Fischer made a motion to approve the June 12, 2014 Airport Advisory Board minutes as corrected. Darin Germann seconded the motion. The motion passed unanimously.

**ITEM 3 DIRECTOR'S REPORT**

Staff discussed the Director's Report with the Airport Advisory Board.

**ITEM 4 MONTHLY REPORTS**

Staff reviewed the monthly reports with the Airport Advisory Board.

**ITEM 5 BOARD MEMBER COMMENTS**

- A. Ed Fischer – No comments
- B. Charlie Robinson – Thanked Derek Barr for his time and service at the airport.
- C. Ken Fry – Congratulated Derek Barr on the new job and wished him well.
- D. Marlo Miller –Absent.

E. William (Bill) Jones – No comment.

F. Darin Germann – No comment.

G. Max Meschberger – No Comment.

**ITEM 6 ADJOURNMENT**

Bill Jones made a motion to adjourn. Max Meschberger seconded the motion. The motion passed unanimously.

**Garden City Recreation Commission  
Minutes  
Monday, July 28, 2014  
2925 E Mary St**

**I. Call Meeting to Order**

Vice Chair Marcus Ramos called the meeting to order at 5:28 pm. GCREC Board Members present were Alyssa Benavidez and Myca Bunch. GCREC Staff present were Superintendent John Washington and Finance Director Terri Hahn.

**II. Approval of Agenda**

Motion by Alyssa Benavidez to approve the agenda, seconded by Myca Bunch. Motion carried with all in favor.

**III. Consent Agenda**

**The following shall stand approved/accepted as presented unless action is taken to remove an item from the consent agenda.**

- **Regular Meeting Monday, June 30, 2014**
- **Special Meeting Thursday, July 17, 2014**
- **Financial Reports for June 2014**
- **Staff Reports**
- **Participation Reports June 2014**

Motion by Alyssa Benavidez to approve the consent agenda, seconded by Myca Bunch. Motion carried with all in favor.

**IV. Superintendents Report**

- **SWKR Golf Tournament-August 15, 2014 @9am** – John reminded Board about the SWKR Golf tournament on August 15, 2014 @ 9am. Please let him or Jared know.
- **Clint Lightner Stadium Master Plan-Outfield Ad Boards (Fall/Winter 2014-15)** – John explained to the Board that he has sold 0% of the signs. There will be four (4) in the outfield at Clint Lightner. They sold at \$4000 each with a five (5) year contract, pay up front.
- **Staff is seeking input for a fit name for The Community Fitness Center.** - John asked the Board about a name for the new fitness center. If they come up with something please give me a call. He will be bringing this to the staff.

**V. New Business**

1. **John is seeking reimbursement for the purchases of supplies from Sam's Club for the Babe Ruth Tournament cookout in the amount of \$254.32.** – John is seeking reimbursement for supplies purchased at Sam's Club for the Babe Ruth Tournament cookout in the amount of \$254.32. Motion by Alyssa Benavidez to approve the reimbursement of \$254.32 to John for Babe Ruth cookout supplies, seconded by Myca Bunch. Motion carried with all in favor.
2. **Terri is requesting for approval of an additional Full Time Accounts Payables Clerk. Staff will have a brief presentation for the justification of this position.** – Terri is asking for additional help with the accounting. With the Rec growing there is a need for another person to help with accounting. There is not enough time in the week to do

what is required to be completed. With that being said, in 2013 I accumulated 130.71 hours of overtime costing the GCRC \$4,227.87 in extra pay and employee taxes but the worst part of that is I lost 16.34 days of personal time away from my family and friends. Currently, to date this year I have 102.12 hours of overtime (\$3,409.12 or 12.77 days lost. This could help pay for another person in assisting me with the day-to-day operations and accounting. I'm asking for your approval for two things, the job description, and to move forward for hire. Motion by Alyssa Benavidez to approve the request to hire a full time Bookkeeper and to approve the Bookkeepers job description, seconded by Myca Bunch. Motion carried with all in favor.

**VI. Old Business**

1. **Approval of a Lease/Purchase Agreement for Wellness & Fitness Equipment.** – Lease quotes were received from the following lending institutions for wellness and fitness equipment for the new facility.

<p>KS State Bank Manhattan, Ks 66502</p>	<p>Option 1: Acquisition Cost: \$478,736.00 Down Payment: \$ 47,873.60 Principal Balance: \$430,862.40 Term: 5 Payments over 5 year Interest Rate: 3.020% Rate Factor: 0.218479 First Payment Due: one year from closing Payment amount: \$94,134.51</p>
	<p>Option 2: Acquisition Cost: \$478,736.00 Down Payment: \$ 0.00 Principal Balance: \$478,736.00 Term: 6 Payments over 5 year Interest Rate: 3.020% Rate Factor: 0.179305 First Payment Due: at Closing Payment amount: \$85,839.70</p>
<p>Commerce Bank Garden City, KS 67846</p>	<p>Total Finance: \$478,736.00 Base Term: 5 years Interest Rate: 2.14% First Payment Due: at Closing Payment Amount: \$99,844.26</p>
<p>American State Bank Garden City, Ks 67846</p>	<p>Option 1: Principal Balance: \$478,736.00 Interest Rate: 3.39% Term: 5 Payments over 5 year First Payment: one year after closing Payment: \$105,701.01</p>
	<p>Option 2: Principal Balance: \$478,736.00 Interest Rate: 3.39% Term: 6 Payments over 5 year</p>

First Payment: at Closing  
Payment: \$86,583.97

Option 3: Principal Balance: \$478,736.00  
Interest Rate: 2.89%  
Term: 5 Payments over 4 year  
First Payment: at Closing  
Payment: \$101,279.13

John recommending going with Commerce Bank with 2.14% interest. Motion by Alyssa Benavidez to approve the lease with Commerce Bank with a 2.14% interest rate for wellness/fitness equipment. The motion was seconded by Myca Bunch. Motion carried with all in favor.

- VII. Executive Session-Applies only if requested by Staff or a Board Member. Recreation Board will go into executive session at 6pm for the purpose of discussing personnel or real property. The Recreation Board will reconvene into open session at 6:30pm.**

**Garden City Recreation Commission Questions and Comments**

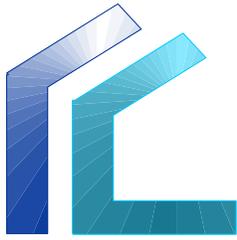
Myca Bunch commented on how well the swim lessons were ran this summer.

- VIII. Adjournment**

Motion by Alyssa Benavidez to adjourn the meeting. Seconded by Myca Bunch. The meeting adjourned at 6:35pm.

Terri Hahn  
Secretary

Approved August 25, 2014



# Garden City Recreation

310 N. 6<sup>th</sup>, Garden City, Kansas 67846 – Phone: 620-276-1200 Fax: 620-276-1203 – email: [grec@garden-city.org](mailto:grec@garden-city.org)

## **AGENDA - Garden City Recreation**

Regular Meeting

Monday – August 25, 2014, 5:15 p.m.

Garden City Recreation Maintenance Center, 2925 E. Mary

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- I. Call Meeting to Order**
  - II. Approval of Agenda**
  - III. Consent Agenda**-The following shall stand approved/accepted as presented unless action is taken to remove an item from the consent agenda.
    - a. Minutes of Regular Meeting Monday, July 30, 2014
    - b. Financial Reports for July 2014
    - c. Staff Reports August)
    - d. Participation Reports July
  - IV. Superintendent Report**
    - NRPA Congress and Exposition in Charlotte, NC, October 12-17, 2014
    - Tangeman Sports Complex & Academy Baseball Field future discussions.
    - Big Brothers & Big Sisters request for office space.
  - V. New Business**
    1. **2014-2019 Capital Improvement**-Discussions will be developed from our current Master Plans and Recreation Boards recommendations for future Recreational Capital Outlay and Recreation Facilities.
    2. **Clint Lightner Stadium master Plan**- Renovation work to the infield turf, grandstand seats have been completed. Next phase will be the backstop, batting cages, and dugouts.
    3. Brian Seagraves is explaining his request to the superintendent to increase his purchase card to \$10,000 for his junior theatre trip.
  - VI. Old Business**
    -
  - VII. Executive Session** –Recreation Board will go into executive session for the purpose of discussing Real Property and/or Personnel/Contracts at \_\_\_\_\_ p.m. The Recreation Board will reconvene into open session upon completion at \_\_\_\_\_p.m..
- Garden City Recreation Commission Questions and Comments**
- VIII. Adjournment**

### **Next Meeting**

*September 29, 2014 @ 5:15*

*Activity Center*

*310 N. 6<sup>th</sup> Street, Room 112*