

**Chapter 17 BUILDING CODES**

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**Article 1 GENERAL REGULATIONS/ENFORCEMENT/PENALTY**

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**Section 17.1.1 Permits Required; Exemptions**

Prior to any person, firm or corporation designing, constructing, erecting, remodeling, altering, demolishing, locating, relocating or removing any building or structure, or placing or installing service equipment within the City of Bel Aire, a permit to do such work shall be obtained from the City. Such permit shall be issued through the Department of City Inspection.

The Department of City Inspection is hereby authorized to adopt and maintain a list of building trade activities, in addition to those contained in the technical building trade codes, which are exempt from the permit requirements of this Chapter. (Ord. 390)

**Section 17.1.2 Permit Exemption**

Exemption from any of the permit requirements of this Chapter, including the technical building trade codes shall not be deemed to grant authorization for any work to be done in violation of the provisions of this Chapter, including the technical building trade codes or any other laws or Codes of the City of Bel Aire, Kansas. (Ord. 390)

**Section 17.1.3 Permit Application Required**

To obtain a permit, the applicant shall first file an application in writing, on a form furnished by the Department of City Inspection for that purpose and pay all applicable fees as established by this Code and the resolutions of the City of Bel Aire, Kansas.

**Section 17.1.4 Permit Application**

To obtain a permit, the applicant shall first furnish to the Department of City Inspection all pertinent data on forms or as required by the enforcing authority prior to the issuance of the permit. When received by the Department of City Inspection, the permit application form shall indicate all contractors of record. An application form containing omissions, inaccuracies or false information shall be rejected by the Department of City Inspection. The application form may be resubmitted to the Department of City Inspection after corrections are made.

In those areas of the city having a high ground water table, which areas are not served by an approved water course or storm sewer for surface water disposal, building permit applications require a special approval by the building official. The application, in addition to providing the information required on the standard application form, shall indicate the lowest floor elevation of the proposed building, whether groundwater may be required to be pumped as a matter of waterproofing below-grade structure and, if so, the manner of water disposal. Topographic and

groundwater elevations for reference purposes are shown on the most current Hydrogeologic Map of Sedgwick County, Kansas, prepared by the State Geological Survey of Kansas. (Ord. 390)

### **Section 17.1.5 Plans and Specifications Required**

Unless otherwise specified, at least two (2) sets of plans, specifications engineering calculations, diagrams and other data shall be submitted with each application for a permit pursuant to the provisions of this Chapter and the technical building trade codes. One (1) set of approved plans and specifications, with computations, shall be retained by the Department of City Inspection. Except as exempted by the technical building trade codes or by the Department of City Inspection pursuant to this Chapter, all such data shall be prepared by or under the direct supervision of an engineer or architect as required by the State Statutes of Kansas. All said plans, specifications, and other data so furnished shall bear the engineer's or architect's seal.

Plans and specifications, when required by this Chapter, including the technical building trade codes, shall be drawn to scale upon substantial paper or cloth and shall be of sufficient clarity to indicate the location, nature and extent of work proposed and show in detail that it will conform to the provisions of the technical building trade codes and all relevant laws, codes, rules and regulations. The engineer and/or architect shall provide, where necessary, proof of plan and specification compliance with all lot and plat requirements including any applicable drainage plans. The engineer and/or architect shall also provide, where necessary, a list of all special inspections and tests that will be required to insure the integrity of the system's design. (Ord. 390)

### **Section 17.1.6 Site Address**

Approved numbers or addresses shall be provided for all new residential and commercial buildings.

A. Residential Buildings. Address shall be mounted or installed on the principal structure with numbers or letters, 3" minimum in height. Such numbers or letters shall be visible from the street or right-of-way which gives the property its address. Such numbers or letters shall be of contrasting color from the structure.

B. Commercial and Industrial Buildings. Address shall be mounted or installed on the principal structure with numbers or letters 6" minimum in height. Such numbers or letter shall be visible from the street or right-of-way which gives the property its address. Such number or letter shall be of a contrasting color from the structure.

### **Section 17.1.7 Permit "180 Day" Limitation**

Every permit issued by the Department of City Inspection under the provisions of this Chapter, including the technical building trade codes shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within 180 days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any item after the work is commenced for a period of 180 days. Before such work can be recommenced, a new permit shall be first obtained to do so, and the fees therefor shall be one half



The schedule of permit fees shall be those set forth in the approved schedule of fees as adopted by the Governing Body of the City of Bel Aire, Kansas. The city clerk, or designee, shall keep an accurate account of fees collected and received under the provisions of this Chapter and record the name of the person on whose account the same was paid, the date and the amount thereof together with the location of the proposed construction or installation to which the fees relate. He/she shall deposit the amount of the fees collected with the City Treasury of the City of Bel Aire, Kansas. Whenever any work for which a permit is required by this Code has commenced without first obtaining said permit, an administrative penalty equal to the amount of the permit fee, as determined by the city clerk or city inspector, shall be collected in addition to the permit fee. Such administrative penalty shall be paid prior to issuance of any permit for construction upon these premises.

### **Section 17.1.11                      Licenses**

All contractors and tradesmen shall provide proof to the City of both a current and valid Metropolitan Area Building and Construction Department [hereinafter “MABCD” or “Metropolitan Area Building and Construction Department”] Contractor’s License and a City of Bel Aire Contractor’s License prior to being issued a permit to design, construct, erect, remodel, alter, demolish, locate, relocate or remove any building or structure, or place or install service equipment within the City.

### **Section 17.1.12                      Contractor’s Duties**

Every licensed contractor shall be responsible for all work included in his or her contract, whether or not such work is done by him or her directly or by subcontractor. He or she shall be responsible for all funds or property received by him or her for prosecution or completion of a specific contract or for a specific purpose. (Ord. 390)

### **Section 17.1.13                      Liability Insurance**

Every licensed contractor shall procure and maintain a policy of general liability insurance covering the activities of the contractor while engaged in contracting hereunder. Such insurance policy shall be written with an insurance company licensed to do business in the state and shall have minimum limits of coverage of three hundred thousand dollars per occurrence. In addition, every such contractor shall procure and maintain workers' compensation insurance as required by law and automobile liability insurance as required by law. (Ord. 390)

### **Section 17.1.14                      Evidence of Insurance**

Every licensed contractor shall file with the Department of City Inspection certificates of insurance evidencing the insurance coverage specified herein. All such certificates shall indicate that the city shall be given at least thirty days advance written notice of any cancellation or material change in coverage of such insurance. (Ord. 390)

**Section 17.1.15 Failure to Maintain Insurance**

Failure of a contractor to either procure or maintain such insurance shall be a violation of the provisions of this ordinance and shall be grounds for an immediate stop work order to said contractor by the city inspector and ultimately an order by the city inspector to suspend or revoke a permit issued under the provisions of this Chapter, including the technical building trade codes. (Ord. 390)

**Section 17.1.16 Certificate of Occupancy Required**

Upon the completion of work pursuant to a permit issued in compliance with this ordinance, the person(s) or entity completing said work shall contact the city inspector for final inspection. After the city inspector inspects a building or other structure and finds no violations of the provisions of this Chapter, including the building trade codes or other laws of the City of Bel Aire, Kansas regulating building construction or use, the city inspector shall issue a provisional certificate of occupancy that shall contain the following:

1. The building permit number.
2. The address of the structure.
3. The name of the owner.
4. A description of work for which the certificate is issued.
5. A statement that the described portion of the structure has been inspected for compliance with the various ordinances of the City of Bel Aire, Kansas regulating building construction or use.
6. A statement that a certificate of occupancy and habitation may be issued upon inspection for compliance with the various Chapters of the Code of the City of Bel Aire, Kansas regulating building construction or use at the time application is made for city utilities in the name of the person(s) or entities desiring to occupy said building or other structure. (Ord. 390)

**Section 17.1.17 Inspection Required**

Prior to occupancy of any building or other structure within the corporate limits of the City of Bel Aire, Kansas, the person(s) or entity desiring to occupy said building or other structure shall request inspection of said building or other structure and the issuance of a certificate of occupancy and habitation by the city inspector. After the city inspector inspects the building or other structure and finds no violations of the provisions of this Chapter, including the building trades codes or other laws of the City of Bel Aire, Kansas regulating building construction or use, the city inspector shall issue a certificate of occupancy and habitation that shall contain the following:

1. The building permit number.
2. The address of the structure.

3. The name of the owner.
4. A description of work for which the certificate is issued.
5. A statement that the described portion of the structure has been inspected for compliance with the various ordinances of the City of Bel Aire, Kansas regulating building construction or use.
6. A statement that the certificate of occupancy and habitation is subject to on-going compliance with the various laws of the City of Bel Aire, Kansas regulating building use and habitability. (Ord. 390)

### **Section 17.1.18 Certificate of Occupancy Revocation**

Subsequent to the issuance of a certificate of occupancy and habitation for a specific building or other structure, the city inspector shall revoke said certificate of occupancy and habitation in writing if he or she determines that said building or other structure no longer complies with any of the provisions of the various laws of the City of Bel Aire, Kansas regulating the use and habitability of said building or other structure. (Ord. 390)

### **Section 17.1.19 Notice of Revocation**

Notice of said certificate of occupancy and habitation revocation shall be given to all owners and occupants of said building or other structure by immediately posting a copy of the written revocation of said certificate of occupancy and habitation on the front door of said building or other structure and mailing a copy of said written revocation to the person(s) or entity listed as receiving utility services at said building or other structure from the City of Bel Aire. Said written notice shall also contain the appeal provisions provided within this Chapter. (Ord. 390)

### **Section 17.1.20 Unlawful Acts**

It shall be unlawful for any person, firm, building permit holder, or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy, or maintain any building, property or structure or cause or permit the same to be done in violation of the provisions of this Chapter, including the technical building trade codes. The list of prohibited acts set forth within this Chapter include, but are not limited to the following:

1. No person shall perform or cause to be performed any work that requires a permit without having first secured the appropriate permit.
2. No person shall, through negligence or indifference, knowingly create an unsafe condition and/or allow an unsafe condition to exist.
3. No person shall prohibit or otherwise interfere with the city inspector in his or her duties to inspect to insure compliance with the provisions of this Chapter, including the technical building trade codes.

4. No person, who is not a duly authorized and licensed contractor, shall perform any work that requires the services of a duly authorized and licensed contractor.
5. No person shall conduct, carry on, or engage in a contracting business without having first obtained a valid current contractor's license.
6. No person holding a current valid contractor's license shall employ any other person who does not hold a current valid license to perform any work requiring a license.
7. No person shall make connections from a source of electricity to a premises wiring system which is regulated by this ordinance and the technical building trade codes and for which a permit is required until approved by the city inspector.
8. No person shall make connections from any electrical source to a premises wiring system which has been disconnected or ordered to be disconnected by the city inspector or the use of which has been ordered to be disconnected until the city inspector authorized the re-connection and use of such system.
9. No person shall inhabit or otherwise occupy any building or other structure without a valid certificate of occupancy and habitation. (Ord. 390)

#### **Section 17.1.21                      Violations and Penalties**

Any person who shall violate the provision of any of the Codes, or amendments, as adopted by this Article, or shall fail to comply with any of the requirements thereof, or who shall act in violation of the approved plan or directive of an official, or of a permit or certificate issued under the provisions of this Chapter, shall be prosecuted, and such prosecution shall be within the Municipal Court of the City of Bel Aire, Kansas. Each day of violation shall be a separate violation. In lieu of prosecution, or as a term of penalty upon being sentenced, such person may be required to repair, remove, or correct any violation, or be directed to pay all costs associated with the City taking any such abatement action.

#### **Section 17.1.22                      Penalty Clause Not Exclusive**

The imposition of the penalties herein prescribed shall not preclude the City, or its enforcement agent, from instituting an appropriate action to restrain, correct, or abate a violation of this Chapter, or any Code adopted herein, and specific authority for such is hereby granted to take any action or imposing any penalty allowed by State law, this code, or this Chapter.

#### **Section 17.1.23                      Assessment, Funding and Payment of Costs**

A. The costs incurred by the City for any action undertaken by the enforcing officer pursuant to or incidental to this Chapter shall be reported in detail and in writing by said officer to the city clerk. The city clerk shall keep an account of such costs, as well as any and all costs of notices, service and/or mailing of notices, and publication of notices, required by this Chapter. The city clerk shall immediately cause the reporting and accounting required by this section to be entered in the appropriate city record and shall report the same to the governing body.



B. The city clerk shall, within ten (10) days of the receipt of the enforcing officer's report of costs, give notice by restricted mail to the owner of the costs to be reported by subsection a of this section and such notice shall include a statement requiring payment of the costs to the city within thirty (30) days following receipt of the notice. Should the owner refuse to take delivery of the notice and return is made to the city indicating such refusal, the city clerk shall send to the owner, by first class mail, the notice previously sent and receipt by the owner shall be deemed to have occurred upon such mailing. The city clerk shall make and maintain records detailing the method and time of sending and receipt of such notice.

C. Should the cost remain unpaid after thirty (30) days of the receipt of the notice by the owner, the city clerk may sell any salvage from the removal and abatement process and apply the proceeds of such sale to pay said costs. Any proceeds received which exceed said costs shall be remitted to the owner within thirty (30) days of conclusion of the sale.

D. Should the proceeds of any sale be insufficient to cover said costs, or if there exists no salvage, the city clerk shall, at the time required by law for the certification of other city taxes, certify the unpaid portion of said costs in conformance with State law for extensions of the same on the city tax rolls against the property upon which the structure was located.

#### **Section 17.1.24 Appeal**

In addition to the other provisions of this Chapter, including the technical building trade codes, any person(s) or entity adversely affected by any action, determination or interpretation of a city inspector pursuant to the provisions of this ordinance shall have the right to appeal such action, determination or interpretation within fourteen days of being informed by said city inspector, either orally or in writing, of said action, determination or interpretation. (Ord. 390)

#### **Section 17.1.25 Form of Appeal**

The appeal must be in the form of a written request, setting forth the grounds for the appeal and all supporting documentation, and include the mailing address of the person(s) or entity making the appeal and a telephone number at which the appellee may be contacted between 8:00 a.m. and 5:00 p.m., all of which shall be filed with the City Clerk. The city clerk may provide a form for an appellant to complete and submit to gather any information necessary to fulfill the requirements of this section. (Ord. 390)

#### **Section 17.1.26 Appeal Hearing**

The City Clerk shall schedule the appeal hearing to take place during the next ten days, before the City Manager. Written notice of the date of the hearing shall be given to the appellant by mailing the same to the address provided in the written request. The appeal shall be an informal administrative hearing at which the City Manager shall hear any oral testimony of which the appellee would like to submit, and receive any written or verbal information necessary from the enforcement officer. All information received shall be maintained for one year as documentation of such appeal. (Ord. 390)

**Section 17.1.27**                      **Appeal Finality**

The decision of the City Manager in the appeal shall be in writing, and such decision shall be final. (Ord. 390)

**Section 17.1.28**                      **Liability**

Requirements of this Chapter shall not be construed as imposing on the City, its officers, agents, or employees, any liability or responsibility for any damages to any property or any injury to any person due to defective installation or any other reason.

**Section 17.1.29**                      **Severability**

If any part or parts of this Chapter shall be held to be invalid, such invalidity shall not affect the validity of the remaining parts of this Chapter, any incorporated chapter, or any Article.

**Article 2**                      **DEPARTMENT OF CITY INSPECTION**

- Section 17.2.1**                      **Establishment of Department; Enforcement Authority**
- Section 17.2.2**                      **Terms referencing City Enforcement Official**
- Section 17.2.3**                      **Reasonable Inspection Effort**
- Section 17.2.4**                      **Stop Work Orders**
- Section 17.2.5**                      **Construction Materials**
- Section 17.2.6**                      **City Inspector’s Best Judgement**
- Section 17.2.7**                      **City Inspector’s Findings**
- Section 17.2.8**                      **Subsequent Inspection**
- Section 17.2.9**                      **Discontinue Use**
- Section 17.2.10**                      **Immediate Hazard**
- Section 17.2.11**                      **Written Notice of Disconnection**
- Section 17.2.12**                      **Action to Abate**
- Section 17.2.13**                      **Utility Disconnection**
- Section 17.2.14**                      **City Inspector Liability**

**Section 17.2.1**                      **Establishment of Department; Enforcement Authority**

There is hereby established in the City of Bel Aire, Kansas a Department of City Inspection which shall consist of one or more Code Enforcement Officers, and such officials shall hereby be empowered to enforce all provisions of this Chapter, including the technical building trade codes as adopted by the Governing Body of the City of Bel Aire, Kansas, as set forth within this Chapter of the Bel Aire Municipal Code. (Ord. 390)



**Section 17.2.6 City Inspector’s Best Judgement**

The city inspector shall decide all questions not provided for in this Chapter, including the technical building trade codes pertaining to the constructing, altering, adding to, or repairing of buildings or structures or its systems in accordance with his or her best judgment of what constitutes good practice based on the codes of the City. (Ord. 390)

**Section 17.2.7 City Inspector’s Findings**

When an installation shall be found not to comply with the provisions of this Chapter, including the technical building trade codes or to be unsafe or defective, the city inspector shall at once notify the person doing the work of such finding or make written notice of the finding and post on or within the building, structure or premises. (Ord. 390)

**Section 17.2.8 Subsequent Inspection**

Every defective installation shall be corrected before a subsequent inspection will be made. Should said person fail or refuse to change, rearrange or remove the work within a time prescribed by the city inspector, the city inspector may issue a stop work order to one or all contractors of record. (Ord. 390)

**Section 17.2.9 Discontinue Use**

Wherever any building or structure of systems therein regulated by this Chapter, including the technical building trade codes is being used contrary to the provisions of such codes, the city inspector may order such use discontinued by written notice served on any person causing such use to be continued. Such person shall discontinue the use within the time prescribed by the city inspector after receipt of such notice to make the structure or portion thereof, comply with the requirements of this Chapter, including the technical building trade codes. (Ord. 390)

**Section 17.2.10 Immediate Hazard**

Where the city inspector determines a system is not an immediate hazard but ascertains that any systems regulated in this Chapter including the technical building trade codes has become unsafe to life, health, property, he or she shall order in writing that such equipment either be removed or restored to a safe condition or whichever is appropriate. The written notice shall fix a time limit for compliance with such order. No person shall use or maintain a defective system after receiving such notice. (Ord. 390)

**Section 17.2.11 Written Notice of Disconnection**

When such equipment or installation is to be disconnected, a written notice of such disconnection and causes therefore shall be given within forty-eight (48) hours to the serving utility, the owner and occupant of such building, structure or premises. (Ord. 390)

**Section 17.2.12                      Action to Abate**

When any system is maintained in violation of this Chapter, including the technical building trade codes and in violation of any notice issued pursuant to the provisions of these regulations, the city inspector shall institute any appropriate action to prevent, correct or abate the violation. (Ord. 390)

**Section 17.2.13                      Utility Disconnection**

The city inspector shall have the authority to cause disconnection of any utility service or energy supplied to the building, structure or systems therein regulated by this Chapter, including the technical building trade codes in case of emergency where necessary to eliminate an immediate hazard to life or property. The city inspector shall whenever possible notify the serving utility, the owner and occupant of the building, structure, or systems of the decision to disconnect prior to taking such action, and shall notify such serving utility, owner and occupant of building structure or systems, in writing, of such disconnection immediately thereafter.

The city inspector may cause the disconnecting of utilities when deemed necessary in the interest of public safety. (Ord. 390)

**Section 17.2.14                      City Inspector Liability**

The city inspector charged with the enforcement of this Chapter, including the technical building trade codes, acting in good faith and without malice in the discharge of his or her duties, shall not thereby render himself or herself personally liable for any damage that may accrue to persons or property as a result of any act or omission performed by him or her in the enforcement of any provision of such codes or other pertinent laws or ordinances implemented through the enforcement of this Chapter, including the technical building trade codes. (Ord. 390)

**Article 3                      RESIDENTIAL CONSTRUCTION CODE**

**Section 17.3.1                      Adoption of the International Residential Code, 2012 Edition, as the One And Two Family Dwelling Code, With Certain Additions and Deletions**

**Section 17.3.2                      Availability of Copies**

**Section 17.3.3                      Effective Date**

**Section 17.3.1                      Adoption of the International Residential Code, 2012 Edition, as the One And Two Family Dwelling Code, With Certain Additions and Deletions.**

There is hereby adopted by reference by the City of Bel Aire, Kansas, for the purpose of establishing standards for the safety, health, and public welfare, the International Residential Code, for One and Two Family Dwellings, 2012 Edition, as published by the International Code Council, 5203 Leesburg Pike, Suite 708 Falls Church, Virginia, 22041, and such amendments as set forth in that Resolution of the Board of County Commissioners of Sedgwick County, Kansas, of May





**Section 17.5.1****Adoption of the NFPA 70, National Electrical Code, 2014 Edition, As the Electrical Code, With Certain Additions and Deletions**

There is hereby adopted by reference by the City of Bel Aire, Kansas, for the purpose of establishing standards for the safety, health, and public welfare, the National Electrical Code, 2014 Edition, including Informative Annex C (Conduit and Tubing Fill Tables), as published by the National Fire Protection Association as N.F.P.A. No. 70-2014, as presently constituted and as may be hereinafter amended, shall apply with the exception of Section 110.16; Section 110.24; Section 200.6(d); Section 210.4(b); Section 210.5(c)(1); Section 210.12; Section 210.52(c)(1) Exception; Section 230.24(A) Exception No. 5; Section 230.40; Section 250.68(a) Exception No. 2; Section 300.4(H); Section 300.11(a)(2); Section 314.28; Section 334.10; Section 334.12(a)(1); Section 334.40(b); Section 334.80; 410.64; Section 430.22(G)(1); Section 430.22(G)(2); Section 514.11(A); Section 590.4(D); Section 590.6(B)(2); and Section 680.8; of such publication. Said N.F.P.A. No. 70-2014, was adopted by the National Fire Protection Association at its 2013 June Technical Session and approved as an American National Standard on August 21, 2013, all as set forth and described and amended within that Resolution of the Board of County Commissioners of Sedgwick County, Kansas, of December, 2014, (Res. No. 159-2014), including all fee schedules unless otherwise set forth within the City's adopted fee schedule, and including all amendments as provided for within Resolution No. 159-2014 as subsequently incorporated into the Wichita/Sedgwick County Unified Building and Trade Code as adopted on May 20, 2015, and providing for penalties and prosecution for violations thereof; and regulation and control of the installation, construction, enlargement, alteration, repair, removal, maintenance, and use of electrical systems, conductors and equipment within or on private or public buildings or other structures and other premises, that connect to the supply of electricity; provides for the issuance of permits and fees therefore; establishes the Board of Electrical Examiners and Appeals; establishes the Electrical Contractors License requirements and penalties for violations thereof, and establishes for Master and Journeyman Electrician and Residential Wireman Certificates, the requirements and exceptions thereto, and for the process of suspension or revocation thereof; creates the office of electrical inspector; and establishes truth in advertising requirements. This Code and all amendments shall hereafter be known as the Electric Code of the City of Bel Aire, Kansas. Any administrative enforcement matters associated with residential properties not otherwise addressed as set forth above, shall be pursued in accordance with the administrative provisions set forth within the International Residential Code, 2012 Edition.

**Section 17.5.2****Availability of copies.**

One copy of said standard code, along with the amendments set forth in that Resolution of the Sedgwick County Commission as described in 17.5.1 above, as currently incorporated into the Unified Building and Trade Code which is adopted through Article 11 of this Chapter, have been and are now filed in the office of the City Clerk, and the said code is adopted and incorporated as if fully set out herein at length as authorized in the manner provided by K.S.A. 12-3009, et seq.

**Section 17.5.3****Effective Date.**



The above adopted code shall be phased in from the date of its adoption until July 1, 2016, to allow for conclusion of projects being completed in conformance with the previously adopted standardized code. New projects may be licensed and permitted using either the above described code or the formally applicable code, whichever is most appropriate to the project and the stage of the development of the project in the discretion of the Code Enforcement Officer. On and after July 1, 2016, no project shall be approved except in conformance with the above described code.

**Article 6 PLUMBING, DRAIN LAYERS, AND GAS FITTING CODE**

- Section 17.6.1 Adoption of the Uniform Plumbing Code, 2012 Edition, As the Plumbing and Gas Fitting Code, With Certain Additions and Deletions**
- Section 17.6.2 Availability of Copies**
- Section 17.6.3 Effective Date**

**Section 17.6.1 Adoption of the Uniform Plumbing Code, 2012 Edition, As the Plumbing and Gas Fitting Code, With Certain Additions and Deletions**

The Uniform Plumbing Code, published by the International Association of Plumbing and Mechanical Officials (IAPMO), 2012 Edition, including the Appendixes and Installation Standards thereto and including the Uniform Plumbing Code’s latest edition of Table 1401-1, excluding Sections 102.1, 102.2, 102.3, 102.3.1, Table No. 103.4: Plumbing Permit Fees, 422.1, 422.1.1, 422.2, 422.3, 422.4, 422.4.1, 422.5, Part II of Chapter 7: Building Sewers, Sections 609.4, 807.4, 1014.0, 1015.0, 1210.1.5 Appendix F, Appendix H, Appendix L 6.0, Appendix L 7.0, and except for amendments set forth in this section, is by reference incorporated herein and made a part of this Code as though set forth at length herein, including all amendments as set forth in Resolution No. 159-2014, of the Board of County Commissioners of Sedgwick County, Kansas, as subsequently set forth within the Unified Building and Trade Code as adopted within of this Chapter. This Code and all amendments shall hereafter be known as the Plumbing and Gas Fitting Code of the City of Bel Aire.

**Section 17.6.2 Availability of copies**

One copy of said standard code, along with the amendments set forth in that Resolution of the Sedgwick County Commission as described in 17.6.1 above, as currently incorporated into the Unified Building and Trade Code which is adopted through Article 11 of this Chapter, have been and are now filed in the office of the City Clerk, and the said code is adopted and incorporated as if fully set out herein at length as authorized in the manner provided by K.S.A. 12-3009, et seq.

**Section 17.6.3 Effective Date.**

The above adopted code shall be phased in from the date of its adoption until July 1, 2016, to allow for conclusion of projects being completed in conformance with the previously adopted

standardized code. New projects may be licensed and permitted using either the above described code or the formally applicable code, whichever is most appropriate to the project and the stage of the development of the project in the discretion of the Code Enforcement Officer. On and after July 1, 2016, no project shall be approved except in conformance with the above described code

**Article 7      MECHANICAL CODE and FUEL AND GAS CODE**

**Section 17.7.1                      Adoption of the International Mechanical Code, 2012 Edition as the Mechanical Code of the City of Bel Aire, Kansas**

**Section 17.7.2                      Adoption of the International Fuel Gas Code, 2012 Edition as the Fuel Gas Code of the City of Bel Aire, Kansas**

**Section 17.7.3                      Availability of Copies**

**Section 17.7.4                      Effective Date**

**Section 17.7.1                      Adoption of the International Mechanical Code, 2012 Edition as the Mechanical Code of the City of Bel Aire, Kansas.**

The International Mechanical Code, as published by the International Code Council, Inc. 2012 Edition, excluding appendix B, and sections 301.2, 301.3, 501.3.1.1, 802.8, and 1101.10 is hereby adopted and incorporated herein by reference, subject to such amendments thereto as are set forth within the Wichita/Sedgwick County Unified Building and Trade Codes. This Code shall regulate the design, installation, maintenance, alteration and inspection of mechanical systems that are permanently installed and utilized to provide control of environmental conditions and related processes within buildings. This Code shall also regulate certain mechanical systems, system components, equipment and appliances as specifically addressed therein and within the amendments of the Wichita/Sedgwick County Unified Building and Trade Codes.

**Section 17.7.2                      Adoption of the International Fuel Gas Code, 2012 Edition as the Fuel Gas Code of the City of Bel Aire, Kansas**

The International Fuel Gas Code, as published by the International Code Council, Inc. 2012 Edition, is hereby adopted and incorporated herein by reference, subject to such amendments thereto as are set forth within the Wichita/Sedgwick County Unified Building and Trade Codes. The installation of fuel gas equipment, fuel gas fired appliances and gas-fired appliance venting systems shall be regulated by the 2012 International Fuel Gas Code, with the following exception: Detached one- and two- family dwellings not more than three stories high with separate means of egress and their accessory structures shall comply with the 2012 International Residential Code.

**Section 17.7.3                      Availability of copies**

One copy of the 2012 International Mechanical Code, and one copy of the 2012 International Fuel





3. Featuring a yard or similar open area, designated as the “front yard” situated between the principal structure located upon said lot or parcel in the street abutting said yard or open space from which said structure is assigned its street address; and
4. Featuring another yard or similar open area designated as the “abutting yard” situated between the principal structure and abutting street from which said principal structure does not receive its street address.

**ENFORCEMENT OFFICER:** The term “enforcement officer” shall mean the Code Enforcement Officer or any law enforcement officer of the city.

**FENCE:** A freestanding structure composed of metal, masonry, glass, concrete or wood, natural vegetation, or any combination thereof, resting on or partially buried in the ground and rising above ground level, and used for confinement, screening, landscaping, or partition purposes.

**INTERSECTIONS:**

**Controlled Intersection:** Any intersection of two streets, the traffic right-of-way of which is assigned by a stop sign, yield sign, or other traffic sign or signal.

**Uncontrolled Intersections:** Any intersection of two (2) streets, the traffic right-of-way of which is not assigned by a stop sign, yield sign, or other traffic sign or signal.

**PRINCIPAL STRUCTURE:** The main use of land or structures as distinguished from a subordinate or accessory use.

**RESIDENTIAL LOT:** Any lot or parcel of real property located within any area zoned as “residential” within the corporate limits of the city.

**VISION TRIANGLE:** A triangular area at the intersection of streets maintained in such a manner as to provide a safe and open line of vision for drivers of vehicles approaching the intersection. Within the vision triangle, no one shall install, construct, plant, park or maintain any sign, fence, hedge, shrubbery, tree, natural growth or other obstruction which would materially impede vision between the heights of 24 inches and eight feet above the street level. Such restrictions shall not apply to official traffic signs, signals and utility poles. (See Subdivision Regulations for regulations concerning VISION TRIANGLE.)

### **17.8.3 Permit Required**

No person shall erect, construct, reconstruct or replace any fence without first obtaining a permit therefor from the city, provided, that no permit shall be required for maintenance of a fence, including minor replacement of components, nor for construction of fence within the City by the City upon City owned property, easements, or reserves. In the case of a fence to be erected, constructed, reconstructed or replaced within a platted or dedicated public drainage or utility easement, such permit shall include an express disclaimer of liability for damage caused by city agents in connection with maintenance or inspection of such easement or any public improvements located thereon.

Additionally, applicable city building and construction code regulations must be met for all fences:

1. Greater than 6' in height;
2. Constructed with concrete or masonry materials; or
3. Determined by the building inspector to create specific safety concerns.

#### **17.8.4 Maximum Height of Fences And Construction Requirements**

No fence constructed, built, maintained, repaired, or replaced upon a lot shall exceed the maximum height established and prescribed by this section.

A. Fences outside vision triangles, No fence located upon a residential lot and outside the boundaries of the applicable vision triangle shall exceed:

six (6) feet in height in residentially zoned districts.

eight (8) feet in height in commercial and industrially zoned districts or as permitted within a final PUD.

B. Fences encroaching vision triangles. No fence, any portion of which is located within the applicable vision triangle, shall exceed three (3) feet in height as measured from the highest curb located within the vision triangle to finish height of said fence. The enforcing officer shall verify that any such fence complies with all provisions of this Code. In areas without curbs, the enforcement officer may measure from the low edge of the road.

C. Residential properties along arterials may have fences, walls or hedges only when approved as part of the master fence/screening plan.

D. In commercial and industrial districts, fences and/or walls shall not be placed in the setback area from street rights-of-way or within the perimeter of any landscape area, except when the fence is permitted for use to serve as a screen for items such as trash receptacles or private parking areas.

E. Fences extending into the front plane of a principal structure on a residential lot shall decrease, within a linearly measured distance of no more than eight (8) feet, from a maximum height of six (6) feet to a height of four (4) feet, shall be at least fifty (50) percent open, and shall not include chain-link or any other metal or wire type fencing.

F. Fences extending into any abutting front yard setback may be allowed to be six (6) foot in height, to the property line, as long as there is no obstruction to any street intersection and/or vision triangle as described in this Article and the City's Subdivision Code, as determined by the Code Enforcement Officer or City Engineer.

**17.8.5 Permitted Fence Materials, and Prohibited Features And Materials**

A. Permitted fencing material. Fences located upon residential lots may be constructed of:

1. Wood fence boards such that all portions of the fence are completely solid or no more than fifty percent open, including privacy fencing and spaced picket fence;
2. Split rail or wood rail;
3. Ornamental iron, except that any decorative tops are subject to the approval of the enforcing officer, and except that no fence constructed of ornamental iron may be less than five (5) feet in height;
4. Woven wire or chain link;
5. Imitation vinyl or other similar decorative material as approved by the City, provided such materials are designed for use as fencing, and no open space in fence constructed of such materials exceeds three fourths (3/4) of an inch; or
6. Brick or stone walls or pillars composed of masonry materials or concrete poured or placed in such fashion as to meet fence design requirements. Stacks of masonry materials or unopened containers of concrete shall not be deemed to be in compliance with this article.

B. Prohibited features in materials. No fence or portion thereof shall carry any electrical charge. No fence or portion thereof located in any residential, commercial, or industrially zoned area shall contain any barbed wire or single barbs. Fences utilizing metal panels will be subject to approval on a case by case basis, but will generally only be considered for approval in relation to agricultural properties, or industrially zoned properties located upon or within drainage easements.

C. All fences and walls shall be constructed with a finished surface facing outward from the property (e.g. in the case of a wooden fence, a “finished surface” means a surface of the fence where the pickets or slats are fully exposed to view). The posts and support beams shall be on the inside of the finished surface.

D. Fence design and construction in all areas developed pursuant to the standards set forth within a PUD or overlay zoning areas will be designed and constructed as provided for within the provisions of the establishment of such PUD or overlay zone.

**17.8.6 Retaining Walls**

Retaining wall construction is subject to individual approval by the City, based upon site and area requirements.

**17.8.7 Fences Located Within Drainage or Utility Easements or Floodways**

A. A fence may be located within a platted or dedicated drainage or utility easement if:

1. The fence is constructed and maintained at an elevation which (a) allows normal surface drainage without blockage by the fence and (b) is approved by the city engineer or his or her designee;
  2. The fence does not divert or result in diversion of normal surface drainage flow from the normal drainage course; and
  3. The fence has removable panels or sections to provide for access by emergency or maintenance personnel and equipment at all times.
- B. The city shall not be liable for damage to or destruction of any fence or groundcover, including but not limited to grass, trees, and shrubs, located within a platted or dedicated drainage, street or utility easement, which are damaged or destroyed by any maintenance or inspections performed by or on behalf of the city within such easement.
- C. Nothing in this Article shall be construed to authorize erection, construction, reconstruction or replacement of a fence in any floodway designated as such by the Federal Emergency Management Agency.

#### **17.8.8 Dangerous Fences Prohibited**

In addition to the previously described prohibitions and restrictions set forth in 17.8.07, no fence shall be constructed or maintained, or be designed, in such manner as to present a danger or hazard to any person, animal, or abutting property owner's boundaries.

#### **17.8.9 Applications, Site Plans and Permits And Fees**

- A. Applications and Permits. Any person or entity intending to construct a new fence or to replace twenty five percent (25%) or more of the total linear feet of any existing fence shall, before commencing said work, make application to the enforcing officer for a permit authorizing the work. Such applications shall be made on forms provided and approved by enforcing officer and shall be accompanied by an application fee as set out in the approved schedule of fees, and no permit shall be issued until said fees are tendered and paid in full. Fees are pursuant to the fee schedule adopted by the City.
- B. Plans Required. All applications for fence permits shall be accompanied by a detailed site plan, to be completed by the person or entity seeking the permit, upon which shall be accurately depicted the location of the principal structure, proposed fence, all utilities serving the principal structure or located upon the residential lot, all utility easements located upon the residential lot, all setbacks affecting said lot and all rights-of-way and property lines of said lot.
- C. License Required. Any person or entity providing the service of construction of a fence, shall hold any current valid trade, professional, business or contractor's license as may be required by other provisions of the city code of the city or other applicable law. Individuals may construct fences upon their own property without obtaining commercial, trade or business licenses, and may use non-commercial assistance as will not receive any type of compensation, whether monetary, in-kind, or in the form of goods or services, for said work.



D. Review and Issuance of Permits. Reasons for Denial. The enforcing officer shall receive and review all applications required by this section and shall ensure that all proposed fences comply with the provisions of this Article and any other applicable laws. The enforcing officer shall complete said review no later than two (2) full business days following receipt of an application. The computation of said period shall not include the day the application is received. In the event the enforcing officer denies an application, the officer shall state in writing and with particularity the reason for said denial.

E. Call for utility locates and receive conformation before commencing to dig or disturb the earth. (see fee schedule)

#### **17.8.10 Complaints; Inquiry and Inspection**

The enforcing officer shall make inquiry and conduct inspections of property or premises upon receiving a complaint stating a violation of this Article and describing the same and its location. The enforcing officer shall, upon making inspection and inquiry, make a written report of such officer's findings.

#### **17.8.11 Right Of Entry**

The enforcing officer has the right of access and entry upon any public or private property, at any reasonable time to make inquiry and inspection to determine if a violation of this Article exists, and to effect any other purpose of this Article. The enforcing officer may also make application to any court of competent jurisdiction for an order granting access and/or entry upon any public or private property in the event such access or entry is denied.

#### **17.8.12 Notice Of Violation**

Any person or entity found by the enforcing officer to be in violation of any provision of this Article shall be served written notice of such violation. The city clerk shall cause notice to be served in conformance with the provisions of the City's Nuisance Code.

#### **17.8.13 Contents Of Notice**

The notice shall describe in writing the conditions constituting a violation of this Article. The notice shall also inform the person or entity receiving such notice that:

A. Such person or entity shall have such time, to be specified in the notice and not to exceed ten (10) days from the date specified in the notice, to remove and abate the violation from the property or premises;

B. Such person or entity may, within the time specified in the notice and not to exceed the date specified therein within which said removal and abatement is required, request an administrative appeal hearing before the City Manager.

C. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the enforcing officer; and

D. Failure to remove and abate the violation may result in prosecution within the municipal court and/or removal and abatement of the violation by the city as provided by the nuisance abatement provisions of this City.

#### **17.8.14 Citation; Penalty; Other Authorized Actions**

Should the person or entity receiving the notice provided for in sections 17.8.12 and 17.8.13 of this Article fail to comply with such notice, or to request an administrative hearing, the enforcing officer may file a complaint in the municipal court of the city against such person or entity alleging a violation of this Article. Upon conviction of the violation of this Article, such person or entity shall be fined in an amount not to exceed one-hundred dollars (\$100) or be imprisoned not to exceed thirty (30) days or be both fined and imprisoned. Each day during or upon which a violation occurs and each day after which such violation continues after notice has been served as provided in sections 17.8.12 and 17.8.13 shall constitute an additional or separate offense. Any action taken pursuant to this provision shall not prohibit the City to act to correct a violation of its building codes, zoning code, subdivision code, or any other code associated with the design, construction, or location of any fence. Additionally, the City may utilize any civil remedy available for enforcement of and compliance with this Fence Code.

#### **17.8.15 Administrative Hearing**

If an administrative hearing is requested in writing and received by the City Clerk within the time period prescribed by this Code, the City Manager shall conduct an administrative hearing as soon as may be practicable and the person or entity receiving notice shall be advised by the city clerk of the time and place of the hearing at least five (5) days in advance thereof. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest to findings of the enforcing officer before the governing body.

A. On the date fixed for hearing or any adjournment or continuation thereof, the City Manager shall hear all verbal evidence submitted by the person to whom notice of the violation was issued, a statement by the enforcement officer, and all written evidence submitted by the both the individual notified of the violation and the code enforcement officer. After hearing and reviewing all evidence provided, the City Manager shall make findings of the applicable laws and applicable facts associated with this case. The hearing provided for in this section need not be conducted according to formal rules of evidence.

B. If, after notice and hearing as provided for in this Article, and upon hearing the evidence provided for in subsection a of this section, the City Manager determines that a violation exists, the Manager shall set forth an Order of Findings, such statement to be a written overview of those findings of facts and those applicable laws supporting such determination. The Order shall also fix a reasonable period of time, typically no more than ten (10) days, within which the abatement of the violation shall be completed, and a statement that if the person upon whom notice of the violation was served fails to complete said removal and abatement within the time period

established by the Order, or fails to diligently pursue completion until the work is completed, the Code Enforcement Officer shall seek a Notice of Abatement pursuant to 17.8.16.

#### **17.8.16 Abatement by City; Procedure**

In the event a person or entity to whom notice has been served pursuant to this fence code fails to remove or abate the conditions, or fails to comply with an Order issued following an administrative hearing, the enforcing officer may elect to remove and abate such violation. The enforcing officer shall proceed in the manner prescribed by this section, as follows:

A. The enforcing officer shall present a resolution to the Governing Body for its consideration and authorizing such officer to abate or cause to have abated the conditions constituting the violation at the end of ten (10) days following passage of the resolution by the Governing Body. The resolution shall further provide that the costs incurred by the city to remove and abate the violation shall be charged against the lot or parcel upon which the violation was located in accordance with State law.

B. In the event the Governing Body adopts and passes the resolution, the enforcing officer shall cause a copy of said resolution to be served upon the person or entity violating this Article and the owner of said lot or parcel. Service shall be effected by personal service or certified mail, return receipt requested.

C. In the event the whereabouts of such person(s) are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the enforcing officer and filed with the city clerk, and the serving of the resolution shall be made by publishing the same once each week for two (2) consecutive weeks in the official city newspaper and by posting a copy of the resolution on the premises where such condition exists.

D. Should the person or entity upon which service is attempted refuse, or fail, to take delivery and return is made to the city indicating such refusal or failure to accept, the city clerk shall send to such person or entity, by first class mail, a copy of the notice previously sent and receipt by such person or entity shall be deemed to have occurred upon such mailing, and the enforcement officer shall post a copy of the resolution on the premises where such condition exists. The city clerk shall make and maintain records detailing the method and time of sending and receipt of such notice.

#### **17.8.17 Authorization to Contract For Services**

If the person, entity or owner fails to remove and abate the violation as provided for in this Article, and it becomes necessary for the enforcing officer to remove and abate such violation, such officer is hereby authorized to contract for and obtain such services and equipment, public or private, the officer deems necessary and appropriate to complete the tasks enumerated herein, and the enforcing officer shall adhere to and comply with all applicable laws, regulations, ordinances and city policies concerning procurement of services and equipment.

**17.8.18 Site To Be Made Safe**

Upon removal and abatement of any violation pursuant to this Article or otherwise, the person, entity or owner shall take any and all action necessary to leave the premises in a safe condition. In the event the owner fails to take such actions as are prescribed by this section, the enforcing officer shall proceed to make the site safe and assess such costs as set forth within 17.8.19.

**17.8.19 Assessment, Funding and Payment of Costs**

A. The costs incurred by the city for any action undertaken by the enforcing officer pursuant to or incidental to this Article shall be reported in detail and in writing by said officer to the city clerk. The city clerk shall keep an account of such costs, as well as any and all costs of notices, service and/or mailing of notices, and publication of notices, required by this Article. The city clerk shall immediately cause the reporting and accounting required by this section to be entered in the appropriate city record and shall report the same to the governing body.

B. The city clerk shall, within ten (10) days of the receipt of the enforcing officer’s report of costs, give notice by restricted mail to the owner of the costs to be reported by subsection a of this section and such notice shall include a statement requiring payment of the costs to the city within thirty (30) days following receipt of the notice. Should the owner refuse to take delivery of the notice and return is made to the city indicating such refusal, the city clerk shall send to the owner, by first class mail, the notice previously sent and receipt by the owner shall be deemed to have occurred upon such mailing. The city clerk shall make and maintain records detailing the method and time of sending and receipt of such notice.

C. Should the cost remain unpaid after thirty (30) days of the receipt of the notice by the owner, the city clerk may sell any salvage from the removal and abatement process and apply the proceeds of such sale to pay said costs. Any proceeds received which exceed said costs shall be remitted to the owner within thirty (30) days of conclusion of the sale.

D. Should the proceeds of any sale be insufficient to cover said costs, or if there exists no salvage, the city clerk shall, at the time required by law for the certification of other city taxes, certify the unpaid portion of said costs in conformance with State law for extensions of the same on the city tax rolls against the property upon which the structure was located.

**17.8.20 Disposition of Moneys Received**

When and if paid, all moneys received under the provisions of this Article shall be credited to the general fund of the city.

**17.8.21 Immediate Hazard**

When in the Code Enforcement Officer’s opinion any fence in violation of this Article is in such condition as to constitute an immediate hazard requiring immediate action to protect the public or adjacent property, the Governing Body may direct the enforcing officer to take immediate action, without delay, to protect the safety of persons and properties including, but not limited to, 1) the

erection of barricades, 2) causing the property upon which the fence is located to be vacated, or 3) causing the fence to be taken down, repaired, shored or otherwise made safe. Such action by the governing body and enforcing officer may be taken without prior notice or hearing of the owners, agents, lien holders, occupants, or other parties in interest. The costs of any action under this section shall be reported and documented, notice of costs shall be afforded, and the costs shall be assessed, in the same manner as provided within the nuisance abatement code.

**17.8.22 Notice To Owner**

Notwithstanding any other provision of this Article or of law, any and all notices required by this Article shall also be served upon the owner of the premises or property upon which there exists a nuisance.

**Article 9 SIGN CODE**

- 17.9.01 Statement of Intent**
- 17.9.02 Definitions**
- 17.9.03 Administration**
- 17.9.04 General Standards**
- 17.9.05 Signs Permitted in All Districts**
- 17.9.06 Signs Permitted in Residential Districts**
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- 17.9.09 Special Permit Uses**
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- 17.9.13 Sign Maintenance Requirements**
- 17.9.14 Abandoned Signs**
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- 17.9.16 Removal of sign**
- 17.9.17 Enforcement**
- 17.9.18 Declaration of Nuisance**

**17.9.01 Statement of Intent**

The intent of this Article is to regulate and control all exterior signs placed for observation in order to preserve, protect and promote the public health, safety, and general welfare of the residents of the City of Bel Aire. Further, it is intended to: encourage the reasonable, orderly and effective display of signs; enhance the physical appearance of the City; reduce visual clutter; prevent blighting influences; protect property values; provide minimum standards to safeguard life, health, and property by regulating and controlling the size, height, design, quality of materials, construction, location, electrification and maintenance of all signs and sign structures; and authorize the use of signs which are compatible with their surroundings.

## 17.9.2

### Definitions

- A. "A" Frame Sign: A freestanding sign which is ordinarily in the shape of an "A" or some variation thereof, which is readily moveable, and is not permanently attached to the ground or any structure.
- B. Address Sign: A sign indicating only the common street address and/or the occupant of a dwelling or structure. For the purposes of this definition, a nameplate shall be construed to be an address sign.
- C. Abandoned Sign: A sign which no longer advertises or identifies a business, lessor, owner, product, activity, message or location that is available to the public.
- D. Attention-Attracting Device: Any device intended to attract the attention of the public to an establishment, location, product or service, except signs as permitted by this sign code.
- E. Awning Sign: (Illuminated and/or non-illuminated.) A sign which is mounted, painted or printed on, or attached to an awning, or canopy. For the purposes of this definition, a canopy sign and a marquee sign shall be construed to be an awning sign.
- F. Billboard: A freestanding outdoor advertising structure which advertises a product or service, or relays a message to the public, meeting size limitations as set out by this sign code.
- G. Canopy:
1. Building canopy: A roof-like structure attached to a building covering the entrance, exit, walkway or loading dock, not including the building roof line extension. For the purposes of this sign code, when the pitch of a building canopy is 1:4 or less (twenty-five (25) degrees or less from vertical), the face of the canopy shall be considered part of the wall.
  2. Freestanding canopy: A self-supported, detached roof-like structure normally covering gas islands.
- H. Community Information Signs: A sign, located within a Master Planned Community, that serves to direct people to a residential subdivision, public building, or community facility such as, but not limited to, a recreational area, nature trail, golf course, lake marina, information area, etc.
- I. Complex: A group of freestanding buildings, or buildings constructed in such a way as to give an appearance of being interrelated because of architectural similarity and/or interconnected drives and parking areas; or a building divided into three (3) or more separate offices, businesses or apartments provided that the building is not part of a large complex. A complex shall be limited to apartment, office or business complexes, shopping centers and/or industrial parks.
- J. Construction Signs: A sign erected on the premises on which development is taking place during the period of such development. Such sign may indicate the names of architects, engineers, landscape architects, contractors or similar individuals, and the owners, financial supporters, sponsors or similar individuals or firms having a role or interest with respect to the structure or project.
- K. Copy Area: (See Sign Face.) The entire face of a sign including the advertising surface and any framing, trim or molding, but not including the supporting structure.

- L. Directional Sign: A sign which serves solely to designate any area or activity such as "exit," "one-way," "drive-in," "auto service," etc.
- M. Directly Illuminated Sign: A sign where the source of illumination is located on the sign face. The source of illumination may include, but not be limited to neon tubes, incandescent bulbs, and fluorescent tubes.
- N. Erected: This term shall mean attached, altered, built, constructed, reconstructed, and shall include the painting of wall signs, but does not include copy changes on any legal conforming sign.
- O. Fuel Rate Sign: A sign which identifies gasoline and/or petroleum product rates or prices in words, numbers, figures or any combination thereof.
- P. Garage Sale Sign: A temporary sign advertising a sale of personal items in a residential yard or structure.
- Q. Governmental Sign: A sign for the control of traffic and other regulatory purposes, street signs, construction signs, danger signs, railroad crossing signs, and signs of public service companies indicating danger and aids to service or safety which are erected by or on the order of any public officer in the performance of his public duty.
- R. Identification Sign: A monument sign identifying a complex.
- S. Incidental Sign: A sign which indicates to the public, goods, facilities or services available on the premises. For the purposes of this definition, credit card signs, signs indicating hours of operation, "help wanted" signs, and similar signs shall be construed to be incidental signs.
- T. Indirectly Illuminated Sign: A sign which is illuminated by a shielded light source.
- U. Internally Illuminated Sign: A sign illuminated by an internal light source diffused through a translucent material.
- V. Master Planned Community: A mixed-use development consisting of six hundred forty (640) or more contiguous acres under one (1) ownership, for which a comprehensive master plan has been approved by the city planning commission.
- W. Monument Sign: A freestanding sign having a solid appearance and a low profile, normally consisting of a face and base. Said sign may be constructed with stone, concrete, metal, routed wood planks or beams, brick or similar materials.
- X. Nameplate Sign: A single-faced, non-illuminated wall sign which displays only the name and occupation of the person or persons occupying space in the building. Nameplate signs may be part of a wall sign.
- Y. Off-site development sign: A temporary freestanding, non-illuminated sign used to direct people to a single-family or duplex subdivision.
- Z. On-site developmental sign: A temporary freestanding, non-illuminated sign identifying a building or construction site and the architects, engineers, financial institutions, contractors, suppliers and Realtors involved. An on-site development sign includes a "coming soon" sign.
- AA. Parapet or parapet wall: That portion of a building wall that rises above the roofline.

- BB. Person: An individual, corporation, association, firm or partnership.
- CC. Political Signs: A sign supporting a candidate for public office or measures on an election ballot.
- DD. Portable Signs: A sign which is not permanently affixed to the ground, building or other structure, which may be mounted on wheels, and can easily be transported from place to place.
- EE. Projecting Sign: A sign extending from the face of the building to which it is attached, not including wall signs. Also known as blade signs.
- FF. Public Notices and Signs: Official notices or signs for a public purpose as required by any law, statute or ordinance or as permitted by the Governing Body.
- GG. Real Estate Sign: A on-site or off-site sign which advertises the sale, rental or lease of property, or special program signs, such as, open house, energy conservation, warranty, builder, etc.
- HH. Roof: The primary cover of a building used to shed weather, including all supporting materials.
- II. Roof Sign: A sign erected, constructed or maintained partially or wholly upon or over the roof of a building, a building canopy, or a freestanding canopy.
- JJ. Sign - Advertising – A sign that has as its purpose to promote, advertise or sell a product or service obtainable on the premises upon which the sign is located, and not to identify the premises.
- KK. Sign Face: That area within a line including the outer extremities of all letters, figures, and characters within a line including the outer extremities of the framework or background.
- LL. Sign Alteration: The replacement, enlargement, rewording, reduction, reshaping, or repainting using different colors, of a sign to serve an establishment or business.
- MM. Sign Maintenance: The normal care and minor repair that is necessary to retain a safe, attractive sign and supporting structures. Repainting with the same colors, or repairing copy or logo shall be considered maintenance if the name, product, service, place, activity, person, etc., depicted remains the same.
- NN. Sign Structure: The base, supports, uprights, braces, framework and face of a sign.
- OO. Snipe Sign: A sign constructed of any kind of material that is attached to a utility pole, tree, fence or similar object located or situated on public or private property.
- PP. Subdivision Entry Marker: A sign used to identify a platted subdivision of twenty (20) or more single-family or duplex lots. Each neighborhood shall be permitted monument type neighborhood entry markers as approved by the City.
- QQ. Temporary Sign: A sign constructed of cloth, canvas, cardboard, plywood or other similar material, which is readily moveable, and is not permanently attached to the ground or any structure thereof, and which is intended to be displayed for a short period of time.
- RR. Time and/or Temperature Sign: A sign displaying time and/or temperature information with no additional advertising or comments other than the name of the company which owns the sign.



SS. Under Canopy Sign: A sign that is placed under the canopy at right angles to the wall of the building. Its sole purpose is for communicating to pedestrian traffic the name of the tenant.

TT. Vehicular Sign: Any sign which is attached to or placed upon a parked motor vehicle and placed in a position or location for the sole purpose of displaying the same to the public.

UU. Wall: A vertical structure which is solid and encloses a building, and supports the roof.

VV. Wall Sign: A sign that is parallel to, and attached to, the surface of a wall, including illuminated awning signs. If a sign is placed on a canopy that has a roof slope of 1:4 or less (twenty-five (25) degrees or less from vertical), the face of the sign may be perpendicular to the ground.

### **17.9.3 Administration**

A. Sign Permit Required in the City of Bel Aire in accordance with the provisions of this Article.

1. It shall be unlawful for any person to erect, or alter any sign as defined in this sign code without first obtaining a sign permit. This requirement shall not be construed to require a permit for sign maintenance as defined in Section 17.9.02-Definitions above, altering changeable copy on theater signs, billboards or similar signs, or signs exempted from a permit as described elsewhere in this sign code.

2. Applications: Sign permits shall be made on a form provided and shall be accompanied by two (2) sets of plans drawn to scale indicating the sign size, location, method of illumination, colors, materials of the sign and structure, and method of attachment. In addition, the applicant shall submit other information relating to the placement, construction, design, etc., of the sign as may be required.

3. Issuance: The city shall issue a permit for the erection, alteration, or relocation of a sign within the city when an application has been properly made and the sign complies with all appropriate laws and ordinances.

4. Sign Permit Number: All signs hereafter installed shall have permanently affixed thereto a label, clearly visible at all times, indicating the number of the sign permit issued.

5. Revocation and Denial: The city may, in writing, suspend or revoke a permit issued under the provisions of this section whenever the permit is issued on the basis of a misstatement of material fact or fraud. When a sign permit is denied by the city, the city shall give written notice of the denial to the applicant, together with a brief written statement of the reasons for the denial.

6. Sign Permit Appeals:

a. Failure of the city to grant permit within forty-five (45) days.

b. Appeal may be made to the City Manager upon denial of a sign permit.

7. Effect of Permit Issuance: No permit for a sign issued hereunder shall be deemed to constitute permission or authorization to maintain an unlawful sign nor shall any permit issued hereunder constitute a defense in an action to abate an unlawful sign.

B. Permit Fees: Each applicant, before being granted a permit, shall pay a permit fee pursuant to city resolution.

1. If it has been determined that any sign or other advertising structure regulated herein is unsafe, or has been constructed, erected or is being maintained in violation of the provisions of this sign code, written notice shall be given to the sign owner. The owner shall immediately remove or repair the sign to bring it into compliance and/or make it safe. If the owner fails to remove or repair the sign so as to comply within five (5) days after the notice, the City may cause the sign to be removed or repaired to make it safe, at the expense of the permittee or owner.

2. The City shall mail a statement of the costs for removal or repair of the unsafe or unlawful sign to either the last known address of the owner of record of the property, the person in charge of such property, or the sign permittee. If said costs are not paid within ten (10) days from the time of mailing of the notice, the City shall levy a special assessment for the cost against the subject lot or parcel of land. The City shall certify the assessment to the Sedgwick County Clerk for collection and payment to the City in the same manner as other assessments and taxes are collected and paid to the City.

C. Access and Right of Entry:

1. The City retains the right to make an inspection of any sign for the purpose of determining compliance with this sign code. Inspections shall be done at a reasonable time.

2. If the building, premises or establishment to be inspected is occupied, the City shall first present proper credentials and demand entry. If such building or premises is unoccupied, he/she shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If such entry is refused, the City shall have recourse as provided by law to secure entry.

3. If after demand, entry or access is refused, the City may acquire such access by application to a court of competent jurisdiction.

#### **17.9.4 General Standards**

A. Routine Maintenance: All signs shall be of sound structural quality, be maintained in good repair, and have a clean and neat appearance. The land adjacent shall be kept free from weeds and trash. If signs are not being maintained as described, said sign may be ordered to be removed.

B. Placement on Easement or Right-of-way: Except in conformance with K.S.A. 25-2711 (2015) regarding placement of political signs during an election period, and 17.9.05 of this Code, no private sign shall be placed on a public easement or public right-of-way.

C. Illuminated Signs: Illuminated signs shall be internally, or indirectly-illuminated. Neon tubes, incandescent bulbs, fluorescent tubes, and other sources of direct illumination that would be exposed to the human eye shall not be permitted.

D. Compliance with Building Code: All signs shall comply with the appropriate detailed provisions of the City Building Code relating to design, structural members and connections. Signs shall also comply with the provisions of the National Electrical Code and the additional construction standards hereinafter set forth in this section.

E. Measurements of Signs:

1. In determining the copy area of a sign, the entire face of the sign, including the advertising surface and any framing, trim or molding, shall be included. Should the sign structure or supports become part of the sign due to the design of the structure or supports in relation to the sign, said structure or supports shall be included in the determination of copy area.

2. In the instance where a sign is composed of letters only, with no connection by the advertising structure between the letters, the copy area shall be determined by measuring the distance from the outside edges of the outside letters and from the top of the largest letter to the bottom of the lowest letter. Should one (1) letter be unequally large or small in comparison to the other letters composing the sign, the unequal letter shall be squared off, the remaining letters shall be measured from the outside edges, and the two (2) added for a total copy area determination.

3. Unless determined by the zoning district regulations, the allowable copy area of a sign shall be based on one (1) side of the sign. Double-faced copy area is allowed provided that both sides of the sign are parallel to one another and that the applicable zoning district regulations are not conflicting.

### **17.9.5 Signs Permitted in All Districts**

The following signs shall be permitted in all districts and shall not require a sign permit, unless otherwise noted. The signs must be in conformance with all other regulations and ordinances of the City.

A. Changeable Copy: Permits shall not be required for replacing or altering changeable copy on theater signs, billboards, or other similar signs.

B. Sign Maintenance: Sign maintenance as defined in Section 17.9.13 of this Article.

C. Garage Sale Signs: All garage sale signs shall be removed no later than one (1) day after the end of the garage sale. Garage sale signs include sample and yard sale signs. Such signs shall not exceed four (4) square feet per sign, with two (2) faces per sign permitted.

D. Governmental Signs and Public Notices.

E. On-Site Development Signs:

1. The sign must be on the site of the development, and shall not exceed eight (8) feet in height or thirty-two (32) square feet in area per face.

2. The sign may have two (2) faces. A maximum of two (2) on-site development signs may be permitted for a development.

F. Off-Site Development Signs: Two (2) such signs may be permitted, after approval by the City. Off-site development signs shall not be closer than one thousand (1,000) feet to another off-site development sign or closer than five hundred (500) feet to the property line of property zoned residential. Size and height for off-site development signs shall be the same as for on-site development signs. Off-site development signs shall not be approved for a period in excess of one (1) year, additional years may be applied for if necessary. A sign permit is required.

G. Nameplate Sign: Such signs shall not exceed four (4) square feet in area.

H. Political Sign: Political signs shall not exceed four (4) feet in height and eight (8) square feet per face with two (2) faces permitted. Political signs shall not be:

1. Placed, erected or maintained on or in public buildings and structures, including libraries, recreational centers, parking structures, city hall, or on or in public parks, lawns, vehicles, trees, shrubs, fences, walks, parking meters, traffic signs or fire hydrants.

2. Placed, erected or maintained on public property or public right-of-way except within the 47 day election period as defined within K.S.A. 25-27-2711;

3. Placed, erected or maintained so as to pose a visibility hazard to pedestrian or motor vehicle traffic along streets, sidewalks or at street corners. To comply with this regulation:

i. No sign shall be located:

1. between the street and any sidewalk;
2. in a manner that blocks access to a curb cut or ADA access point;
3. within four feet of a roadway, as measured from the curb.

ii. No sign shall exceed thirty (30) inches in height as measured from the ground to the finish height of said sign. No sign shall exceed three (3) feet in width as measured from the widest part of each side of said sign. The enforcing officer shall verify that any such sign complies with all provisions of this Code. In areas without curbs, the enforcement officer may measure from the low edge of the road.

iii. In areas with identified specific traffic safety concerns the City Engineer may determine that traffic safety requires site specific sign regulations which shall be posted upon the City's website.

4. Lighted.

5. Placed, erected or maintained earlier than the election period: forty-five (45) days before and two (2) days after any election scheduled by the Sedgwick County Election Commissioner.

6. In the event such signs are not removed, the city is authorized to remove said signs and to charge the candidate or campaign on whose behalf the signs were erected using the procedure set forth in Section 17.9.03 - Administration of this Article.

I. Real Estate Sign:

1. Single-Family and Two-Family Districts: Such signs shall not exceed four (4) square feet per face, with two (2) faces per sign permitted. The maximum height of the sign shall not exceed four (4) feet. A maximum of one (1) sign per lot shall be permitted.

2. Multi-family, Commercial and Industrial Districts: Such signs shall not exceed sixteen (16) square feet in area per face with two (2) faces permitted. The sign shall not exceed height (8) feet in height. A maximum of two (2) signs shall be permitted for each project. In addition, one (1) real estate sign, not exceeding four (4) square feet per face, with a maximum of two (2) faces permitted, and a maximum height of six (6) feet shall be permitted. A sign annual application and permit is required.

3. Undeveloped Land for Sale Signs: In lieu of the signs permitted in paragraphs 1 and 2 above, undeveloped and unplatted land over ten (10) acres in size shall be permitted two (2) "For Sale" signs not to exceed thirty-two (32) square feet in area per face, with two (2) faces permitted. The signs shall not exceed eight (8) feet in height. A sign annual application and permit is required.

J. Directional Sign: Such sign shall not exceed four (4) square feet per face with two (2) faces permitted. The sign shall not exceed four (4) feet in height if freestanding.

K. Civic Organization Signs: After approval by the Planning Commission a non-illuminated sign displaying the logos of civic organizations operating in the city may be permitted on major arterials, highways or expressways at the city limits. The signs shall not exceed sixteen (16) square feet per face, with one (1) face permitted. The maximum height shall not exceed eight (8) feet.

L. Address Numbers: All primary structures shall have an address number visible from the adjacent street. Address numbers shall not exceed two (2) square feet in total area.

M. Community Information Signs:

1. A signage plan that includes directional signs, governmental signs, identification signs, subdivision entry markers, monument signs, etc. The Community Information Signs shall be harmonious in color, sizing and location. The purpose of such signs will be to facilitate the movement of vehicular and pedestrian traffic within a development. The number of signs shall be kept to the minimum necessary to accomplish this purpose.

2. Each sign shall not exceed ten (10) square feet per face with two (2) faces permitted. The sign shall not exceed four (4) feet in height. The minimum setback from any property line shall be four (4) foot. The design of the sign may incorporate a base of materials consistent with the overall signage plan. The sign base area shall not exceed the actual face area by more than ten (10) percent.

3. No advertising or promotional information is permitted on a Community Information Sign; however, a logo may be permitted. Such sign may be non-illuminated, indirectly illuminated, or internally illuminated.

4. Such sign shall be maintained by the sign owner according to the provisions of this sign code.

5. A sign application and permit is required.

6. A sign plan must be approved by the Zoning Administrator.

### **17.9.6 Signs Permitted in Residential Districts**

The following signs shall be permitted designating the subdivision or neighborhood:

- A. Subdivision Entry Markers: Each subdivision shall be permitted monument type subdivision entry markers as approved by the City.
- B. Monument Signs: Every building constructed for a permitted non-residential use shall be permitted one (1) monument sign not to exceed ten (10) feet.
- C. Identification Signs: One (1) identification (monument) sign per multifamily complex. If the complex fronts on two (2) streets, one (1) identification sign shall be allowed on each street frontage.

### **17.9.7 Signs Permitted in Commercial Districts**

The following signs shall be permitted:

- A. Wall Signs: Each business or establishment shall be permitted not more than one (1) wall identification sign. The area of the wall sign shall not exceed ten (10) percent of the area of the wall upon which it is mounted.
- B. Monument Signs:
  - 1. One (1) monument identification sign shall be permitted for each freestanding building housing one (1) tenant.
  - 2. In complexes, or single business sites, on property more than five (5) acres in size and with more than one (1) street frontage, or one thousand (1,000) feet of street frontage, a second identification (monument) sign shall be permitted on each street frontage.
- C. Free Standing Identification Sign is a pylon that is freestanding two-faced sign permanently fixed to the ground by supports not to exceed forty-five (45) square feet per face.
- D. Under Canopy Signs: In complexes with three (3) or more tenants, under canopy signs shall be permitted in addition to the signage described above. One (1) such sign will be permitted for each business. Under canopy signs shall not be larger than two (2) square feet in area.
- E. Wall and Under Canopy Signs: In complexes with three (3) or more tenants, wall and under canopy signs shall be similar in color, materials and lighting. Such signs shall be incorporated into the design of the complex.
- F. Time and Temperature Sign: In addition to permitted monument signs, a time and/or temperature sign may be permitted for a complex or a business in a freestanding building. There shall not be any advertising except the name of the complex or business that owns the sign. Size, height and setback requirements shall be the same as for monument signs.
- G. Menu-boards:

1. Each drive-up, drive-through, or drive-in restaurant shall be permitted signage in addition to that described above. The additional signage shall be limited to one (1) freestanding or wall-mounted menu board per lane. The menu board shall not exceed six (6) feet in height or thirty-two (32) square feet in total surface area. Total surface area means all of the area included in the face of the menu board, the trim, the base and other appurtenances. Menu boards may be non-illuminated, or illuminated. Menu boards shall be located along the sides or rear of the building. Whenever a menu board is visible from a public street, additional landscaping and/or fencing shall be used in order to screen the menu board from view from the public street.

2. In lieu of one (1) freestanding or wall menu board, a restaurant may have a menu board located at each order station. The menu boards at each order station shall not exceed four (4) square feet in surface area per face.

H. Services Offered Board: Each automatic car wash (conveyor type, longer than fifty [50] feet) shall be permitted signage in addition to that described above. Such additional signage shall be limited to one (1) freestanding or wall-mounted "services offered" board. The "services offered" board shall not exceed five (5) feet in height or twenty (20) square feet of surface area per face. The board may have two (2) faces. "Services offered" boards shall be non-illuminated, or indirectly-illuminated. "Services offered" boards shall be located along the front, side or rear of the building; provided that if the board is located in front of the building, sufficient fencing or landscaping shall be provided to screen the board from view from public streets, alleys or other public property.

I. Freestanding Canopy Signs: Signs may be placed on freestanding canopies provided they meet the requirements for wall signs for buildings. Only the fascia of the canopy upon which the sign is placed shall be used for determining the size of the sign.

J. Gasoline Price Signs: A retail establishment dispensing gasoline shall be permitted up to two (2) double-faced signs which are used for the purpose of advertising the price of gasoline sold and/or the nature of services offered on the premises. The sign(s) may be non-illuminated, internally illuminated or indirectly illuminated. The signs shall not exceed eighteen (18) square feet per face, with two (2) faces permitted. The maximum height of the signs, if not located on canopy supports, shall not exceed ten (10) feet. The sign(s) shall not be placed closer to the public right-of-way than the closest gasoline pump island.

K. Theater Signs: A movie theater may have an attraction panel based on the following criteria:

1. For each screen in the movie theater or drive-in movie theater, one (1) module, not to exceed eighteen (18) square feet, may be placed on the sign. A module is that portion of the sign, including trim, used to display the title of one (1) movie. One (1) additional module may be used to display the name of the theater.

2. The total surface area of a sign face shall not exceed one hundred sixty-two (162) square feet per face. A maximum of two (2) faces is permitted.

3. Setback: A minimum of thirty (30) feet from a street right-of-way is required.

4. Height: The maximum height of the sign shall not exceed fifteen (15) feet from average grade level.
5. Movie theater signs may have changeable copy.

### **17.9.8 Signs Permitted in Industrial Districts**

The following signs shall be permitted:

- A. Wall Signs: Each industrial establishment or building shall be permitted not more than three (3) wall signs. The signs shall be limited to one (1) per wall and shall not exceed ten (10) percent of the total area of the wall upon which it is placed or two hundred (200) square feet, whichever is less.
- B. Monument Signs: Same as permitted in Section 17.9.06 above
- C. Gasoline Price Signs: Same as permitted in Section 17.9.07 above
- D. Freestanding Canopy Signs: Same as permitted in Section 17.9.07 above
- E. Billboard Signs: Billboard signs may be permitted in Industrial districts after approval of a special use permit. Billboards shall comply with the criteria as outlined in the Zoning and Subdivision Codes regarding Special Uses.

### **17.9.9 Special Permit Uses**

Sign regulations for special permit uses are as follows:

- A. For those special permit uses that are located in agricultural and residential districts, signs shall be permitted under the provisions of Sections 17.9.06 above, or as set forth by Bel Aire Zoning Code, Special Uses.
- B. For those special permit uses that are located in commercial districts, signs shall be permitted under the provisions of Sections 17.9.07 above and 17.9.08, or as set forth by Bel Aire Zoning Code, Special Uses.
- C. For those special permit uses that are located in industrial districts, signs shall be permitted under the provisions of Section 17.9.08 above, or as set forth by Bel Aire Zoning Code, Special Uses.
- D. Signs permitted in conjunction with special use permits: In the case of special use permit uses, all wall and detached signs shall be approved by the City, except where private sign criteria have been previously approved for the development. In reviewing and approving such signs, the City shall take into consideration (1) the use of the facility, (2) the height of the building, (3) the surrounding land uses and zoning districts, (4) the relationship of the site to interstate highways, where applicable, and (5) the topography of the site. Where appropriate, the sign regulations of the underlying zoning district or the most analogous zoning district may be followed.
- E. Private sign criteria: All hotels, motor hotels, shopping centers, business parks, office parks or industrial parks shall be required to prepare a set of sign criteria governing all exterior signs in the development. Such criteria shall be binding upon all subsequent purchasers or lessees within



the development. The size, colors, materials, styles of lettering, appearance of logos, types of illumination and location of signs shall be set out in such criteria. In all respects, the criteria shall be within the regulations set out in this article and shall be for the purpose of assuring harmony and visual quality throughout the development. Final development plans (in the case of a planned zoning district) or building permits (in the case of a conventional zoning district) shall not be approved until the City has approved the sign criteria. No sign permit shall be issued for a sign that does not conform to the criteria. For purposes of this section, the terms "shopping centers, business parks, office parks or industrial parks" shall mean a project of one (1) or more buildings that has been planned as an integrated unit or cluster on property under unified control or ownership at the time that zoning was approved by the city. The sale, subdivision or other partition of the site after zoning approval does not exempt the project, or portions thereof, from complying with these regulations relative to the number of detached signs, harmony and visual quality of signs to be installed.

#### **17.9.10 Signs Permitted in Planned Unit Developments**

Signage in association with a planned unit developments (PUD) shall be determined as part of the PUD plan, as approved in writing by the Building Inspector and Zoning Administrator.

#### **17.9.11 Temporary Signs**

In addition to the permanent signs permitted elsewhere in this sign code, upon proper application and application fee, temporary signs shall be permitted in the following instances:

A. Grand Opening Signs and Quitting Business Signs: Grand opening signs and quitting business signs shall be permitted subject to the following limitations:

1. One (1) sign per street frontage or building.
2. The maximum size shall be no larger than that permitted for permanent wall signs.
3. Signs shall be permitted to be displayed a maximum of one (1), thirty (30) day period per year.
4. Pennants, banners or flags shall be permitted.
5. Inflatable devices shall not be permitted.
6. Searchlights shall not be permitted.

B. Special Sale Signs: Special sale signs shall be permitted subject to the following limitations:

1. One (1) sign per street frontage or building.
2. The maximum size shall be no larger than that permitted for permanent wall signs.
3. Pennants, banners or flags shall be permitted.
4. Inflatable devices shall not be permitted.
5. Searchlights shall not be permitted.

6. Such signs shall be permitted only for one (1), fifteen (15) day period every six (6) months.

C. Special Real Estate Signs: Special real estate events shall be allowed the use of pennants or flags under the following conditions:

1. In conjunction with area-wide tour events.
2. The opening of a new subdivision or the new phase of an existing subdivision. In this instance, pennants and flags shall only be permitted for one (1), fifteen (15) day period every six (6) months.
3. One (1) other special event similar to (a) above and limited to one (1), fifteen (15) day period per year such as open house or model house.
4. No fee is required for these signs.

D. Temporary Special Events: Temporary special events, such as sidewalk sales, civic club events, school activities, etc., shall be permitted to have temporary signs, banners, flags or pennants, after a sign permit is obtained, in accordance with Section 17.9.03 above. No fee is required for these signs.

#### **17.9.12 Prohibited Signs and Devices**

It shall be a violation of these zoning regulations to erect, install, place or maintain the following signs:

- A. Any signs or advertising structures which are not specifically permitted under the sign subsection in the schedule of district regulations or otherwise specifically permitted under these zoning regulations.
- B. Any sign or advertising structure which constitutes a traffic hazard or a detriment to traffic safety by reason of its size, location, movement, content, coloring, or method of illumination, or by obstructing the vision of drivers, or signs that obstruct or detract from the visibility of traffic control devices or emergency vehicles. The use of flashing lights or revolving lights is prohibited in any sign as constituting a hazard to traffic. Any sign which by glare or method of illumination constitutes a hazard to traffic is prohibited. Exterior neon lighting, illuminated banding or other types of lighting that creates a glow is prohibited unless it is approved by the City as part of an overall theme for the development area.
- C. Any sign or advertising structure which is obscene, indecent and/or prurient.
- D. Any sign or advertising structure (other than those erected by a governmental agency or required to be erected by a governmental agency for a public purpose) erected, installed or placed on the right-of-way of any street, road or public way, or signs overhanging or infringing upon the right-of-way of any street, road or public way, except as specifically permitted by these regulations.
- E. Any sign or advertising structure erected on City of Bel Aire property or other governmental property other than signs erected by said governmental entity.

- F. Any sign or advertising structure which is erected, installed or maintained that obstructs any fire escape, required exit, window or door opening intended as a means of ingress or egress.
- G. Any advertising sign or structure which is erected, installed or maintained upon the rear of a building.
- H. "A" Frame Sign.
- I. Attention-attracting devices.
- J. Abandoned signs.
- K. Off-site advertising signs (except billboards or off-site development signs).
- L. Portable sign, excluding real estate signs.
- M. Roof signs.
- N. Snipe signs, except warning signs posted by public utility companies.
- O. Temporary signs, except as permitted by Section 17.9.11 above.
- P. Vehicular signs, except that company or corporation name or logo painted on a motor vehicle or semi-trailer normally in motion during use shall not be considered a vehicular sign when moved at least one (1) time during a twenty-four (24) hour period.
- Q. Any sign not specifically, or by reasonable implication, permitted herein.
- R. Painted wall signs which are painted directly on the wall of a building or surface, except that signs painted on a window in a commercial building (as part of the permitted wall sign) shall be permitted.
- S. Directly illuminated signs, except to the extent specifically authorized in this Article.

### **17.9.13 Sign Maintenance Requirements**

Any sign or advertising structure erected or installed under the provisions of this section shall be maintained in a safe, functional and sound structural condition at all times. General maintenance of said sign shall include the replacement of nonfunctional, broken, or defective parts, painting, cleaning and upkeep of the premises immediately surrounding the sign or advertising structure, and any other action required for the maintenance of said sign or advertising structure. All signs and supporting structures shall be kept painted or treated in some manner to prevent rust, decay or deterioration. Should any sign, which is placed in a public easement, be damaged due to maintenance of utilities in that easement, or maintenance of the easement or the public right of way itself, by the city or others, the cost for repairs or replacement of said sign shall be borne by the sign owner.

### **17.9.14 Abandoned Signs**

A. Except as may be otherwise provided for in this sign code, any sign which is located on a building, structure, or real property which becomes vacant and unoccupied for a period of three (3) months, or any sign which pertains to a time, event, or purpose which no longer applies for a

period of one (1) month, shall be deemed to have been abandoned. An abandoned sign is prohibited and shall be removed by the owner of the sign or the owner of the premises. When a wall sign is removed, the wall of the building or structure shall be restored to its normal appearance. Removal of a monument sign shall include the face and base. Any sign structure that is in conformance with this Article may remain as long as it is maintained and does not become unsafe or unsightly.

B. If after the three (3) month time period has elapsed and the sign has not been removed, the City shall notify, in writing, the property owner of record that the sign shall be removed within thirty (30) days after the date of the notice. If the sign has not been removed within thirty (30) days after the date of the notice, the City may have the sign removed and the associated costs assessed to the property.

C. The City shall mail a statement of such cost for the removal of said sign to the last known address of the owner of record of the property, or person in charge of such property. If such costs are not paid within ten (10) days from the mailing of such notice, the governing body of the City shall proceed to pass an ordinance levying a special assessment for such cost against the lot or piece of land. The City shall certify such assessment to the Sedgwick County Clerk for collection and payment to the City in the same manner as other assessments and taxes are collected and paid to the City.

#### **17.9.15 Nonconforming Signs**

Nonconforming signs are declared by this sign code to be incompatible to, and inconsistent with, land development and other permitted signs set forth within any particular zoning district. It is the intent of this section to allow those nonconforming signs to continue until they are removed under the terms of this sign code, but not to encourage their survival.

A. Alterations of Nonconforming Signs: No nonconforming sign or advertising structure shall be expanded, relocated or restored unless said sign or advertising structure is brought into conformance with the provisions of this section or any other applicable city code requirement.

B. Replacement, Restoration or Reconstruction: In the event that any existing nonconforming sign, as provided for in this section, is damaged by any means, including, but not limited to, fire, flood, wind, explosion, act of God, or act of a public enemy, to an extent of fifty (50) percent or more of the replacement, restoration or reconstruction value of the sign, or fifty (50) percent of the square footage of the sign copy area, said sign shall not be replaced, restored or reconstructed unless it is brought into full compliance with the provisions of this sign code. Any nonconforming sign which remains damaged or disrepair, regardless of the percentage of construction (or damage) value or area of square footage which is damaged, for a period of three (3) months following the date of damage without the issuance of a valid sign permit, shall not be replaced, restored or reconstructed unless it is brought into full compliance with all applicable codes and ordinances.

C. Repairs and Maintenance: Routine repairs and maintenance of nonconforming signs necessary to maintain health and safety may be permitted. Said repairs and maintenance shall include such activities as painting and the replacement of a damaged or deteriorated sign face. The cost of said repairs and maintenance shall not exceed fifty (50) percent of the value of the sign which is to be repaired or maintained. Said value shall be that which is current at the time of the repair or maintenance. Prior to said repair and maintenance taking place, the City shall be consulted to

determine if a sign permit is necessary. If such determination is made, then all applicable work performed shall be accomplished through the issuance of a valid sign permit as required by this sign code.

D. Termination of Nonconforming Signs: Upon the discontinuance of a use to which any nonconforming sign or advertising structure is accessory to, the tenant or property owner shall remove all nonconforming signs, supports and structures upon the building or property upon which said use was located.

#### **17.9.16 Removal of sign**

A. The enforcement officer shall remove or cause to be removed any abandoned, dangerous, defective, illegal or prohibited sign subject to removal under the provisions of this article which has not been removed within the time period specified in this article, or any other sign maintained in violation of the provisions of this article.

B. Prior to removing permanent signs requiring substantial modification of property, the enforcement officer shall prepare a notice of violation which shall describe the sign and specify the violation involved and which shall state that if the sign is not removed or the violation is not corrected within thirty days, the sign shall be removed. The notice shall be mailed or given to the owner of the sign, or the occupant of the property upon which the sign is located or their employee or representative, or to the owner of the property on which the sign is located as shown on the records of the register of deeds.

C. Notwithstanding any other provision of this article, in cases of emergency, the enforcement officer may cause the immediate removal of a dangerous or defective sign without notice.

D. Any temporary sign placed on private property in violation of any provision of this article may be immediately removed and impounded by the enforcement officer. Removal or impoundment of a sign by a person other than the City's enforcement officer is not hereby authorized. A notice of violation shall be served upon the owner or agent of such sign when known, or upon the owner or occupant of the property where the sign was located. Such sign shall be retained by the enforcement officer for a period of thirty days, after which it may be disposed of in any manner deemed appropriate by the City. Such sign may be recovered by the owner within thirty days upon payment of a service charge of fifteen dollars per sign.

E. During an election period, signage placed outside the permitted sign placement areas as described herein, of either roadway right of ways or easements, may be removed and disposed of without notice to the owner. During an election period, Public Works employees may, but are not required to, remove and replace or relocate signs further back in the right of way to perform maintenance work within the right of way area.

F. Any property owner or lessee may be subject to either criminal or administrative enforcement of this article in conformance with the enforcement provisions of the City's Nuisance Code.

#### **17.9.17 Enforcement**

It shall be the duty of the City Manager to appoint a Code Enforcement Officer, who shall enforce all provisions of this sign code. It shall be unlawful for any person to interfere with any City Official in the performance of the duties assigned under this sign code.

**17.9.18 Declaration of Nuisance**

The Governing Body hereby determines that the public peace, safety, health and welfare requires that all signs and sign structures hereafter constructed or erected shall conform and comply with such requirements forthwith. All signs which shall hereafter be constructed or erected in violation of the provisions of this sign code shall be declared public nuisance, and shall be removed and abated in the manner provided by law for the abatement of public nuisances.

**Article 10 WIRELESS TELECOMMUNICATIONS FACILITIES SITING**

<b>Section 17.10.1</b>	<b>PURPOSE</b>
<b>Section 17.10.2</b>	<b>OBJECTIVES</b>
<b>Section 17.10.3</b>	<b>DEFINITIONS</b>
<b>Section 17.10.4</b>	<b>APPLICABILITY</b>
<b>Section 17.10.5</b>	<b>ZONING REQUIREMENTS</b>
<b>Section 17.10.6</b>	<b>PERMITS</b>
<b>Section 17.10.7</b>	<b>PERMIT PROCESS</b>
<b>Section 17.10.8</b>	<b>SITING AND PLACEMENT WITHIN THE PUBLIC RIGHT-OF-WAY</b>
<b>Section 17.10.9</b>	<b>PRE-EXISTING STRUCTURES</b>
<b>Section 17.10.10</b>	<b>BULK REGULATIONS</b>
<b>Section 17.10.11</b>	<b>STRUCTURAL REQUIREMENTS</b>
<b>Section 17.10.12</b>	<b>USE LIMITATIONS</b>
<b>Section 17.10.13</b>	<b>SIGNS</b>
<b>Section 17.10.14</b>	<b>STEALTH DESIGN FOR WIRELESS TELECOMMUNICATIONS FACILITIES</b>
<b>Section 17.10.15</b>	<b>MODIFICATION AND REPLACEMENT</b>
<b>Section 17.10.16</b>	<b>BUILDING PERMITS, INSPECTIONS AND CERTIFICATIONS</b>
<b>Section 17.10.17</b>	<b>ABANDONMENT</b>
<b>Section 17.10.18</b>	<b>MAINTENANCE</b>
<b>Section 17.10.19</b>	<b>FEES AND SPECIAL USE PERMIT DEPOSIT PROCESS</b>

**Section 17.10.1** PURPOSE. The purpose of this article is to regulate the placement, construction and modification of commercial wireless telecommunications facilities and antenna support structures in order to protect the health, safety and welfare of the public, while at the same

time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the City in compliance with the Telecommunications Act of 1996, Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96 § 6409(b), (c), 126 Stat. 156 (2012) (Spectrum Act), Section 332(c)(7) of the Communications Act and the Federal Communication Commission’s 2009 Declaratory Ruling, *FCC Ruling 14-153*, adopted October 17, 2014 and released October 21, 2014, FCC Ruling 18-133 released in October 2018, and adopted in January 2019 and any other applicable laws.

**Section 17.10.2** OBJECTIVES. The objectives of this article are the following:

1. To regulate the placement, construction and modification of wireless telecommunications facilities in the City;
2. To regulate the location of wireless communication facilities in areas and on sites where the adverse impact is minimal;
3. To minimize the potential adverse visual impact of wireless telecommunications facilities through careful design, siting, landscaping and innovative camouflaging techniques;
4. To ensure that wireless telecommunications facilities are compatible with surrounding land uses;
5. To promote and encourage shared use/co-location of wireless telecommunications facilities and antenna support structures as the primary option for personal wireless telecommunications services instead of the construction of additional single-provider towers;
6. To avoid potential damage to property caused by wireless telecommunications facilities by ensuring that such structures are soundly and carefully designed, constructed, modified, maintained and removed when no longer used or when determined to be structurally unsound;
7. To encourage the safe, effective and efficient provision of personal wireless telecommunication services to the community;
8. To ensure that the regulation of personal wireless telecommunication services does not prohibit or have the effect of prohibiting the provision of such services; and,
9. To ensure that that the regulation of personal wireless telecommunication services does not unreasonably discriminate among functionally equivalent providers of such services.

**Section 17.10.3** DEFINITIONS. For the purpose of this article, certain terms or words used herein shall be interpreted as follows:

1. Abandonment. A failure to (a) to start operations within one hundred eighty (180) days of completion of the structure, or (b) to cease operation for a period of one hundred eighty (180) or more consecutive days.
2. Act. The Communications Act of 1934, 47 U.S.C. §§ 151 *et seq.*, as amended, including the amendment known as the Telecommunications Act of 1996, and all future amendments.

3. Antenna. Any structure or device used to transmit or receive electromagnetic or optical signals for television, radio, digital, microwave, cellular, telephone, personal communication system (PCS) or similar forms of wireless telecommunication.
4. Antenna Support Structure. Any building or structure other than a tower or stealth monopole that can be used for the location of telecommunications facilities.
5. Applicant. Any person who applies for a administrative approval or special use permit or a building permit.
6. Array. A set of antennas for one (1) carrier or service that are placed on a structure at a given height and spaced so as to avoid interference.
7. Base Station. A station at a specified site that enables wireless communication between user equipment and a communications network, including any associated equipment such as, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. Base station includes structures other than towers that support or house an antenna, transceiver, or other associated equipment that constitutes part of a “base station” at the time the relevant application is filed with State or municipal authorities, even if the structure was not built for the sole or primary purpose of providing such support, but does not include structures that do not at that time support or house base station components
8. Camouflage. A wireless communication facility that is disguised, hidden, or integrated with an existing structure as an architecturally compatible element or a wireless communication facility that is placed within an existing or proposed structure so as to be effectively hidden from view. This is a form of stealth design.
9. City. The City of Bel Aire, Kansas.
10. Co-location. Locating wireless telecommunication facilities owned by more than one provider on/in a single antenna support structure, tower or stealth monopole structure. Co-location includes equipment associated with the antennas (such as wiring, cabling, cabinets, and backup-power).
11. Distributed antenna system (DAS) networks. DAS is a small-cell transmission system which uses components that are a fraction of the size of macrocell deployments, and can be installed on utility poles, buildings, and other existing structures.
12. Engineer. Any qualified, licensed engineer who specializes in either electrical or microwave engineering, especially the study of micro-frequencies; and/or, who specializes in structural integrity and determining whether a tower or antenna support structure has the capacity to accommodate more than one provider.



13. Equipment enclosures. A structure, shelter, cabinet, or vault used to house and protect the electronic equipment necessary for processing wireless communication signals and associated equipment. Associated equipment may include air conditioning, back power supplies and emergency generators.
14. Existing tower. Any tower in existence at the time of application for an administrative permit or special use permit.
15. FAA: The Federal Aviation Administration.
16. Fall Zone. The area on the ground within a prescribed radius, beginning from the base of a telecom structure or an antenna support structure within which there is a potential hazard from falling debris or collapsing material.
17. FCC: The Federal Communications Commission.
18. Guyed Tower. A type of tower that is supported, in whole or in part, by guy wires anchored to any surface.
19. Height. The vertical distance above grade to the highest point of the antenna support structure, including the lightning rod and antenna.
20. Landowner. Any person with fee title to a parcel of land within the City.
21. Lattice Tower. A self-supporting structure, erected on any surface, which consists of an open network of metal crossed strips or bars to support antennas and related equipment.
22. Modification. Any physical change to any element of a telecommunications structure or pre-existing structure.
23. Mount. The structure or surface upon which wireless communication facilities are mounted. There are three (3) types of mounts: (i) Building mounted--a wireless communication facility affixed to the roof or side of a building, (ii) Ground mounted--a wireless communication facility fixed to the ground such as a tower, and (iii) Structure mounted--a wireless communication facility fixed to a structure other than a building, such as light standards, utility poles, and bridges.
24. Monopole. A support structure, erected on any surface, which consists of a vertical pole fixed into the ground and or attached to a foundation that supports antennas and any connecting appurtenances.
25. Municipal Facilities. An antenna support structure owned by the City, including, but not limited to, water towers, fire stations and other similar buildings and structures.

26. Operator. An individual, partnership, association, joint-stock company, trust, or corporation engaged in control and maintenance of all instrumentalities, facilities and apparatus incidental to wireless telecommunication transmission, including but not limited to, a tower, antennae, associated buildings, cabinets and equipment. For the purposes of this article, an "operator" may or may not hold a lease, license or title on or for the site on which a tower is located.
27. Owner. Any person who develops, constructs, builds, modifies, erects or owns a telecommunications structure upon a parcel of land.
28. Person. Any individual person, firm, partnership, association, corporation, company or other legal entity, private or public, whether for profit or not for profit.
29. Personal Wireless Telecommunications Services. Any personal wireless service as defined in the Act, including FCC-licensed commercial wireless telecommunications services such as cellular, personal communications services, specialized mobile radio, enhanced specialized mobile radio, paging and unlicensed wireless services and common carrier wireless exchange access services.
30. Pre-Existing Structure. Any telecommunications structure that existed prior to the effective date of this article or any telecommunications structure that exists outside the City limits either before or after the effective date of this article and is annexed into the City limits.
31. Provider. An entity licensed by the FCC or a state agency to transmit or receive electromagnetic or optical signals for television, radio, digital, microwave, cellular, telephone, personal communication system (PCS) or similar forms of wireless telecommunication. A tower builder is not a provider.
32. Public Right-Of-Way. The area of real property in which the city has a dedicated or acquired right-of-way interest in the real property. It shall include the area on, below or above the present and future streets, alleys, avenues, roads, highways, parkways or boulevards dedicated or acquired as right-of-way. The term does not include utility easements.
33. Screening. Materials that effectively hide personal wireless facilities from view, or landscaping in accordance with the requirements of the Zoning Ordinance.
34. Security Barrier. A wall, fence, or berm that has the purpose of sealing a wireless communication facility from unauthorized entry or trespass.
35. Small Cell Facility. A wireless communication facility that meets both of the following qualifications: (A) Each antenna is located inside an enclosure of no more than six cubic feet in volume, or in the case of an antenna that has exposed elements, the antenna and all of the antenna's exposed elements is no more than three cubic feet; and (B) primary

equipment enclosures that are no larger than 28 cubic feet in volume, or facilities comprised of such higher limits as the federal communications commission has excluded from review pursuant to 54 U.S.C. § 306108. Associated equipment may be located outside the primary equipment, and if so located, is not to be included in the calculation of equipment volume. Associated equipment includes, but is not limited to, any electric meter, concealment, telecommunications demarcation box, ground-based enclosures, back-up power systems, grounding equipment, power transfer switch, cut-off switch and vertical cable runs for the connection of power and other services.

36. Stealth. A method of designing, constructing, and/or locating any telecommunications structure to blend in with the character and environment of the area in which it is located, and to enhance compatibility with nearby land uses and the area by minimizing visual impacts, incorporating the design principles.
37. Stealth Monopole. Any freestanding, monopole structure, 50 feet or less in total height, as measured from the ground, which incorporates stealth design principles, including but not limited to, camouflaging the structure as a tree, flagpole or light pole.
38. Substantial Change. a modification “substantially changes” the physical dimensions of a tower or base station, as measured from the dimensions of the tower or base station inclusive of any modifications approved prior to the passage of the Spectrum Act, if it meets any of the following criteria:
  - a. for towers outside of public rights-of-way, it increases the height by more than 20 feet or 10%, whichever is greater; for those towers in the rights-of-way and for all base stations, it increases the height of the tower or base station by more than 10% or 10 feet, whichever is greater;
  - b. for towers outside of public rights-of-way, it protrudes from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for those towers in the rights-of-way and for all base stations, it protrudes from the edge of the structure more than six feet;
  - c. it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets;
  - d. it entails any excavation or deployment outside the current site of the tower or base station;
  - e. it would defeat the existing concealment elements of the tower or base station; or
  - f. Substantially changes the physical dimensions under objective standards established by the FCC
39. Support structure. A ground-mounted self-supporting vertical structure used to elevate or carry lines, cables, wires, or antennas for telecommunications, cable television, electricity or other utility services, or to provide lighting.
40. Telecommunications Structure (Structure). Any tower, stealth monopole or telecommunications facilities.

41. Telecommunications Facilities. Any cables, wires, lines, wave guides, antennas and any other equipment or facilities, including buildings, shelters or cabinets that house telecommunications providers' equipment, associated with the transmission or reception of communications that a person seeks to locate or has installed upon or near a commercial tower or antenna support structure.
42. Tower. A self-supporting lattice, guyed or monopole structure that supports telecommunications facilities for the purpose of providing personal wireless telecommunications services, including any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities. The term tower shall not include stealth monopoles, as defined herein, or amateur radio operators' equipment, as licensed by the FCC.
43. Transmission equipment. Antennas and other equipment associated with and necessary to the operation of a telecommunication facility, including power supply cables and backup power equipment
44. Unlicensed wireless services. Commercial mobile services that operate on public frequencies and do not need a FCC license.
45. Wireless communication service and wireless communication facilities as used in the chapter shall be defined in the same manner as the Title 47, United States Code, Section 332 (c)(7)(C), as may be amended now or in the future and includes facilities for the transmission and reception of radio microwave signals used for communication, cellular phone, personal communication services, enhanced specialized mobile radio, and any other wireless services licensed by the FCC and unlicensed wireless services.

#### **Section 17.10.4      APPLICABILITY**

1. All wireless telecommunications facilities and antenna support structures, and any portion of which are located within the City shall be subject to this article, except as follows:
  - a. Amateur radio operators. This article shall not apply to any short-wave radio tower that is owned and operated by a federally licensed amateur radio station.
  - b. Residential Antennas. This article shall not apply to accessory antennas attached to residential structures whose purpose is receiving television, radio, microwave, telephone, digital data or similar forms of wireless information transmission for the sole use of the occupants. A provider shall comply with this article to utilize a residential structure as an antenna support structure for its network, and shall obtain the appropriate permits as required.
  - c. Utility poles. This article shall not apply to utility poles, which are utilized solely for the support of electrical, telephone, cable television or similar cables and wires, located on public rights-of-ways or easements for that purpose, and are part of a system of such poles

throughout the City.

d. Broadcast systems and facilities. This article shall not apply to towers or telecommunications facilities utilized for the transmission of signals that do not constitute personal wireless telecommunications services.

#### **Section 17.10.5 ZONING REQUIREMENTS**

1. Towers: A tower, and any related telecommunication facilities, shall only be permitted by administrative approval or special use permit, whichever is applicable, in all zoning districts. No person shall erect a tower upon any parcel of land unless:

- a. An application for administrative approval is made, and approved, in accordance with this article; or
- b. An application for special use permit is made, and approved, by the Governing Body.

2. Stealth Monopoles: Stealth monopoles and any related telecommunication facilities shall only be permitted by administrative approval or special use permit in all zoning districts. No person shall erect a tower upon any industrial parcel of land unless:

- a. An application for administrative approval is made, and approved, in accordance with this article; or
- b. An application for special use permit is made, and approved, by the Governing Body.

#### **Section 17.10.6 PERMITS**

1. Permit Required: No person shall locate an antenna or tower for wireless communication purposes or substantially change an existing wireless communication facility upon any lot or parcel within the City except as provided in this article.

2. Application Requirements for Administrative Approval or Special Use Permits: Each application for a permit shall conform to the requirements of this article. A single application will be accepted for multiple locations, however each facility will be individually reviewed for approval. If a determination is made to request a Special Use Permit to originally site or modify an existing site, the provisions of Article 8 of the Zoning Regulations regarding special uses shall be followed, and the following shall be provided:

- a. The name, address and telephone number of the landowner of any parcel of land or antenna support structure upon which the telecommunications structure will be situated. If the applicant is not the landowner, the applicant shall submit his or her name, address and telephone number. The landowner, owner and applicant shall sign the application.
- b. The legal description and street address of the parcel of land, or antenna support structure, upon which the proposed telecommunications structure will be situated.

- c. Elevation plans drawn to scale of all proposed wireless telecommunications facilities; an accurately scaled site plan showing existing buildings, proposed wireless telecommunications facilities and proposed landscaping and screening; and a written description of all proposed wireless telecommunications facilities and proposed quantities, types and sizes of landscaping materials.
- d. Photographs of the site in its current condition, and accurately proportioned photo-realistic representations of the site showing the telecommunications structure in place with proposed landscaping and screening.
- e. If the applicant is not the landowner, the landowner shall provide an affidavit indicating consent to develop upon the landowner's property. The landowner shall sign an agreement with the City that states if abandonment occurs, the landowner shall be responsible for the removal of the proposed telecom structure if the owner fails to remove it. (See also Section 17.10.17 Abandonment) The landowner shall file the agreement with the Register of Deeds as a condition of approval of any permit for any telecommunications structure, and shall provide a copy of the filed agreement to the City prior to approval of the permit for the telecommunications structure. The agreement shall refer to the life mentioned in Section 17.10.17 - Abandonment.
- f. An affidavit from the manufacturer or engineer describing the maximum capacity of the telecommunications structure for co-location, including the number and type of providers it can accommodate, with consideration of radio frequency interference, mass, height and other characteristics, as well as options to overcome any problems those considerations may pose to service delivery. The affidavit shall certify that the telecommunications structure has been designed and will be constructed to support the specified number of providers.
- g. For a stealth monopole or tower application, certification from the engineer of the structure's manufacturer that the structure is designed and shall be constructed to ensure that a structural failure or collapse will not create a safety hazard to adjoining properties and that the structure will collapse on itself within the fall zone designated by the manufacturer.
- h. Written statements from the applicant or engineer that indicate the following:
  - 1) A map showing the location of the proposed telecommunications structure and its service area; the location of the providers' other existing wireless telecommunications facilities in the area; applicable propagation models, search ring maps and other relevant documentation.
  - 2) The minimum height required to serve the proposed service area.
  - 3) A description of the fall zone of the telecommunications structure, including the impact of any additional dimensions associated with an increase to the tower or base structure not deemed to be a substantial change under FCC Ruling 14-153.
  - 4) The distance between the proposed telecommunications structure and the nearest residential dwelling unit and residentially zoned properties including any additional dimensions associated with an increase to the tower or base structure not deemed to be a substantial change under FCC Ruling 14-153.
  - 5) A description of the security barrier, including the impact of any additional dimensions associated with an increase to the tower or base structure not deemed to be a substantial change under FCC Ruling 14-153, if any, surrounding the base of the telecommunications structure, including the method of fencing, finished color and, if applicable, the method of camouflage and illumination.

- i. When applicable, documentation that the proposed tower or stealth monopole meets FAA requirements.
- j. Any other information requested by the City that is reasonably necessary for the City to fully evaluate the application including information associated with any potential additional dimensions associated with an increase to the tower or base structure not deemed to be a substantial change under FCC Ruling 14-153.
- k. An engineer shall provide the following written technical evidence:
  - 1) Evidence that the proposed telecommunications structure meets the standards set forth in “Structural Requirements.”
  - 2) Evidence that the proposed site of the telecommunications structure, including any additional dimensions associated with a possible increase to the tower or base structure not deemed to be a substantial change under FCC Ruling 14-153, does not pose a risk of explosion, fire or other danger to life or property due to its proximity to volatile, flammable, explosive or hazardous materials such as LP gas, propane, gasoline, natural gas or corrosive or other hazardous chemicals.

**Section 17.10.7 PERMIT PROCESS**

Except as otherwise provided within this article for siting of telecommunication facilities within right of ways, the following permit process shall be applicable within the City.

1. Administrative Approval or Special Use Permit. The Administrator, and/or the Planning Commission and Governing Body shall consider an administrative approval or special use permit application, as applicable, subject to the requirements set forth within this article, and shall also take into account the following additional standards:
  - a. Whether substantial evidence exists to demonstrate that existing or approved wireless telecommunications facilities or antenna support structures are unsuitable for co-location or to serve the proposed service area.
  - b. Whether the proposed telecommunications structure(s) has incorporated a reasonable level of stealth design to minimize the visual impact of the telecommunications structure(s), given the type of telecommunications structure and the character of the area in which the structure(s) is proposed to be located.
2. Administrative Approval Process. A single application will be accepted for multiple locations, however each facility will be individually reviewed for approval. Within ten (10) business days of receiving a complete application, the zoning administrator shall approve, approve with conditions, or deny the request for an administrative permit, or shall refer the application to the planning commission for a public hearing.
  - a. The zoning administrator may issue an administrative permit for the installation, structural modification, or change in height, dimension, or number of antenna of a wireless communication facility if:
    - (1) The proposed wireless communication facility is a small cell facility and/or otherwise satisfies the performance standards and other requirements of this article; and
    - (2) If the antenna component of the wireless communication facility will be installed or

exists in a residential or commercial district, it will be attached to:

- i. An existing support structure; or
  - ii. A replacement or extension of an existing support structure, if the height of the replaced or extended support structure does not exceed the height of the original support structure by more than ten (10%) percent or more than ten (10) feet, whichever is greater. In addition, the diameter of the replaced or extended support structure shall not add an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six (6) feet; or
  - iii. Installation of ground cabinets that are not more than 10% larger in height or overall volume than any other ground cabinets associated with the structure (NOTE: A request for installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure shall require a special use hearing).
3. **Written Findings Required.** Any decision to deny an Administrative approval or Special Use Permit, under this section shall be made in writing and shall state the specific reasons for the denial. Any denial by the Governing Body shall be deemed a final administrative decision, subject to judicial review and appeal. In the event that a permit application is denied by the Governing Body, no new request for the same or substantially similar permit shall be accepted or processed within six (6) months after denial of that application.
  4. The Applicant may appeal any determination of the zoning administrator to the Planning Commission by converting the application to a request for a special use permit. The applicant may, by written notice to the zoning administrator, convert the request for an administrative permit to a request for a special use permit at no additional cost. Additionally, an applicant may, in lieu of and without first seeking an administrative permit hereunder, initially request a special use permit for a proposed wireless communication facility.
  5. **Protests.** The notification and protest area for permit applications shall be two hundred (200) feet from the property boundary of the proposed tower site. The protest procedure shall be as provided in K.S.A. 12-708 and Article 5 of the Bel Aire Zoning Code.
  6. **Special use permit.**
    - a. **Hearing.** For any application to install, structurally modify, or change in height, dimension, or number of antenna a wireless communication facility that does not meet the criteria for an administrative permit, or for any application to install a new support structure in a residential district or commercial district, the planning commission may issue a special use permit after holding a public hearing in accordance with the procedures established in the Bel Aire Zoning Code.
    - b. **Standards for evaluation of special use permit applications.** The planning commission may approve, or approve with conditions an application for a special use permit in any zoning district after review and consideration of all of the following:
      - 1) Conformity with the city's comprehensive plan;



- 2) Compatibility with abutting property and surrounding land uses;
  - 3) Adverse impacts such as visual, environmental, or safety impacts;
  - 4) Color and finish of the proposed facilities;
  - 5) Screening potential of existing vegetation, structures and topographic features;
  - 6) Potential for adequate screening of proposed facilities;
  - 7) Scale of facilities in relation to surrounding land uses;
  - 8) Impact on entry corridors into the city;
  - 9) Impact on landmark structures, historically or architecturally significant structures or districts, or environmentally sensitive areas;
  - 10) Impact upon established easements;
  - 11) History of land use of property, including but not limited to: existing nuisance code violations, failure of property owner to abide by nuisance, health and safety, building or zoning codes, failure of property owner to enforce codes upon subject property when property occupied by a tenant, and documentation that property is currently subject to abandonment or foreclosure action;
  - 12) Property owner entering into abandonment agreement, which will be filed with the register of deeds and run with the property.
7. Denial of special use permit. Any decision by the Planning Commission to deny a special use permit under this section shall be made in writing and shall state the specific reasons for the denial. Any denial by the planning commission may be appealed to the Governing Body. Any denial by the Governing Body shall be deemed a final administrative decision, subject to judicial appeal and judicial review. In the event that a special use permit application is denied by the planning commission or Governing Body, no new request for the same or substantially similar administrative or special use permit shall be accepted or processed within six (6) months after denial of that application.
- a. Protests. The notification and protest area for special use permit applications shall be two hundred (200) feet from the proposed boundary areas of the site(s) of the wireless communication facilities. If a special use permit is approved by the planning commission, affected property owners shall have the same right to present a protest petition to the Governing Body and appeal that decision as property owners as provided for in rezoning cases.

**Section 17.10.8 SITING AND PLACEMENT WITHIN THE PUBLIC RIGHT-OF-WAY**

1. Purpose and objectives. The purpose of this section is to establish requirements for the siting and placement of wireless communication facilities, including support equipment and support structure(s) (as defined herein) to such wireless communication facility, within the public right-of-way in a manner consistent with state and federal law, while ensuring the public health, safety, and welfare, including minimizing the visual effects of wireless communication facilities on public streetscapes, protecting public views, and otherwise avoiding and mitigating the potential impacts of wireless communication facilities on nearby properties and the community at-large. The provisions of this section are not intended and

shall not be interpreted to prohibit or to have the effect of prohibiting telecommunication services, nor shall they be applied in such a manner as to unreasonably discriminate among providers of functionally equivalent telecommunication services.

2. Permit required.
  - a. No person shall install, structurally modify, or change in height, dimension, or number of antenna a wireless communication facility in the public right-of-way except upon approval of an administrative permit or a special use permit, as provided in this section.
  - b. Maintenance or repair of existing permitted wireless communication facilities shall be excluded from the permitting requirement of this section.
3. Complete Application Required. Within ten (10) business days after receiving a submitted application, if the zoning administrator, or designee, determines that the application is incomplete, such administrator, or designee, shall issue a written determination of incomplete application to applicant setting forth in detail the areas of such application that must be completed before such application may be processed. The notice of incomplete application may be communicated via e-mail, fax, or via regular mail, as applicant has indicated preference for this notice on the application.
4. Administrative Approval Process. Within ten (10) business days of receiving a complete application, the zoning administrator shall approve, approve with conditions, or deny the request for an administrative permit, or shall refer the application to the planning commission for a public hearing.
  - a. The zoning administrator may issue an administrative permit for the installation, structural modification, or change in height, dimension, or number of antenna of a wireless communication facility in the public right-of-way if:
    - (1) The proposed wireless communication facility is a small cell facility and/or otherwise satisfies the performance standards and other requirements of this section; and
    - (2) If the antenna component of the wireless communication facility will be installed or exists in a residential district or commercial district, it will be attached to:
      - i. An existing support structure; or
      - ii. A replacement or extension of an existing support structure, if the height of the replaced or extended support structure does not exceed the height of the original support structure by more than ten (10%) percent or more than ten (10) feet, whichever is greater. In addition, the diameter of the replaced or extended support structure shall not add an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six (6) feet; or
      - iii. Installation of ground cabinets that are not more than 10% larger in height or overall volume than any other ground cabinets associated with the structure (NOTE: A request for installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure shall require a special use hearing).

- b. Any decision to deny an administrative permit under this section shall be made in writing and shall state the specific reasons for the denial.
    - (1) The Applicant may appeal any determination of the zoning administrator to the Planning Commission by converting the application to a request for a special use permit at no additional cost. Additionally, an applicant may, in lieu of and without first seeking an administrative permit hereunder, initially request a special use permit for a proposed wireless communication facility. use permit. The applicant may, by written notice to the zoning administrator.
5. Special use permit.
- a. Hearing. For any application to install, structurally modify, or change in height, dimension, or number of antenna a wireless communication facility in the public right-of-way that does not meet the criteria for an administrative permit, or for any application to install a new support structure in the public right-of-way in a residential district or commercial district, the planning commission may issue a special use permit after holding a public hearing in accordance with the procedures established in the Bel Aire Zoning and Subdivision Codes.
  - b. Standards for evaluation of special use permit applications. The planning commission may approve, or approve with conditions an application for a special use permit in any zoning district after review and consideration of all of the following:
    - 1) Conformity with the city’s comprehensive plan;
    - 2) Compatibility with abutting property and surrounding land uses;
    - 3) Adverse impacts such as visual, environmental, or safety impacts;
    - 4) Color and finish of the proposed facilities;
    - 5) Screening potential of existing vegetation, structures and topographic features;
    - 6) Potential for adequate screening of proposed facilities;
    - 7) Scale of facilities in relation to surrounding land uses;
    - 8) Impact on entry corridors into the city; and
    - 9) Impact on landmark structures, historically or architecturally significant structures or districts, or environmentally sensitive areas.
  - c. Denial of special use permit. Any decision by the Planning Commission to deny a special use permit under this section shall be made in writing and shall state the specific reasons for the denial. Any denial by the planning commission may be appealed to the Governing Body. Any denial by the Governing Body shall be deemed a final administrative decision, subject to appeal and judicial review. In the event that a special use permit application is denied by the planning commission or Governing Body, no new request for the same or substantially similar administrative or special use permit shall be accepted or processed within six (6) months after denial of that application.
    - 1) Protests. The notification and protest area for special use permit applications shall be two hundred (200) feet from the proposed boundary areas of the site(s) of the wireless communication facilities. If a special use permit is approved by the

planning commission, affected property owners shall have the same right to present a protest petition to the Governing Body and appeal that decision as property owners in rezoning cases.

6. Application Requirements.

7. Performance criteria. Unless otherwise specified, all wireless communication facilities in the public right-of-way shall comply with the following performance standards. The planning commission may grant a waiver from these standards when the applicant has demonstrated that there is a need to close a significant gap in coverage or capacity that can only be met by placement of the proposed facilities in the proposed location, or if the applicant can demonstrate any technical limitations conflicting with the performance standards, and if the purpose and objectives of this section would be better served thereby.

- a. Antennas shall be screened by means of canisters, shrouds or other screening measures and treated with exterior coatings of a color and texture to match the support structure upon which they are attached.
- b. Any replacement support structure shall be of new material, and the replacement or extension of a support structure shall match the original and/or surrounding utility or light poles in material, style, design, color, and finish.
- c. Antennas shall not extend more than thirty-six (36) inches from the top of the support structure.
- d. Support equipment attached to a support structure (excluding ancillary attached electrical equipment, such as an electric meter or breaker panel) shall not exceed six (6) feet in height and two (2) feet in width, or project more than twenty-four (24) inches horizontally from the support structure.
- e. All portions of the wireless communication facilities (other than the support structure and ground-mounted or underground support equipment) shall be located so as to provide adequate roadway clearance, to prevent interference or hazard to pedestrians, vehicular traffic, or other property in the public right-of-way.
- f. Cable connecting an antenna to any support equipment shall be contained inside or shall be flush mounted to the support structure and covered with a metal, plastic, or similar material cap that matches the color of the support structure and is properly secured.
- g. A new, modified, or replaced support structure shall not exceed eighteen (18) inches in diameter. The City shall prefer the use of stealth and monopole structures rather than lattice type towers. When an antenna array that protrudes from the wireless communication facility is used on a support structure, the support structure generally should be a monopole.
- h. No signs or advertising shall be allowed on wireless communication facilities, except for small identification, address, warning, and similar information plates approved by the zoning administrator.
- i. Wireless communication facilities shall not be artificially illuminated unless required by applicable law to protect the public's health and safety.

j. Place facilities in locations to do not hinder existing or planned uses of the right-of-way such as utilities, drainage, street lights, sidewalks, driveways, turn lanes, etc.

k. Using colors, textures and materials that blend in with the existing environment and minimize reflection; under some circumstances, surfaces should be painted, or otherwise treated, to match or complement existing background structures or utility poles, as appropriate.

l. The height of facilities should not exceed 10% of the height of existing structures in the right-of-way that are located within one block of the proposed facility unless a greater height is authorized by the applicable City Engineer, in which case facilities at a height of twenty-five (25) feet or less are particularly encouraged.

### **Section 17.10.9** PRE-EXISTING STRUCTURES

1. Pre-existing structures shall meet all requirements of this article upon modification, in accordance with these regulations.
2. All pre-existing structures shall comply with the following requirements of this Article:
  - a. “Building Permits, Certifications and Inspections.”
  - b. “Maintenance.”
  - c. “Abandonment.”

### **Section 17.10.10** BULK REGULATIONS

1. Maximum Height.
  - a. The height of a tower or stealth monopole shall be regulated by this article.
  - b. The height of a tower, including any antenna, shall not exceed one-hundred-fifty (150) feet, as measured from the ground. The maximum height limitation does not include a lightning rod, which shall not exceed an additional twenty (20) feet in height. When considering the height of a proposed tower, the impact of any additional dimensions associated with an increase to the tower or base structure not deemed to be a substantial change under FCC Ruling 14-153, should be considered.
  - c. The total height of a stealth monopole shall not exceed fifty (50) feet, as measured from the ground. When considering the height of a proposed tower, the impact of any additional dimensions associated with an increase to the tower or base structure not deemed to be a substantial change under FCC Ruling 14-153, should be considered.
  - d. The following height requirements shall apply to telecommunications facilities mounted externally on antenna support structures or municipal facilities:
    - (1) On structures 30 feet in height or less, telecommunications facilities shall be mounted consistent with the “Stealth Design Principles.”

(2) On structures between 30 and 60 feet in height, telecommunications facilities shall not extend more than a combined height of 75 feet, including the structure on which it is mounted upon.

(3) On structures 60 feet in height or more, telecommunications facilities shall not extend more than 75 feet, including the structure on which it is mounted upon.

(4) The height of facilities should not exceed 10% of the height of existing structures in the right-of-way that are located within one block of the proposed facility unless a greater height is authorized by the applicable City Engineer, in which case facilities at a height of 75 feet or less are particularly encouraged.

## 2. Setback Restrictions.

- a. Towers. Towers shall be set back from all property lines a distance equal to the fall zone of the tower, as certified by the structure manufacturer's engineer. If the fall zone is not ascertainable, the tower shall be set back from all property lines a distance equal to the height of the tower, including any antenna, plus other appurtenances. When considering the height of a proposed tower, the impact of any additional dimensions associated with an increase to the tower or base structure not deemed to be a substantial change under FCC Ruling 14-153, should be considered.
- b. Stealth Monopoles. Stealth monopoles shall be set back from all property lines a distance equal to the fall zone of the structure, as certified by the structure manufacturer's engineer. If the fall zone is not ascertainable, the stealth monopole shall be set back from all property lines a distance equal to the height of the stealth monopole, including any antenna, plus other appurtenances. When considering the height of a proposed tower, the impact of any additional dimensions associated with an increase to the tower or base structure not deemed to be a substantial change under FCC Ruling 14-153, should be considered.
- c. Accessory ground-level equipment including guy-wire anchors shall follow the setbacks for accessory uses in the applicable zoning district. When considering the dimensions of any accessory ground-level equipment, the impact of any additional dimensions associated with an increase to the tower or base structure not deemed to be a substantial change under FCC Ruling 14-153, should be considered.

### **Section 17.10.11** STRUCTURAL REQUIREMENTS

1. All wireless telecommunications facilities shall be designed and certified by an engineer to be structurally sound and shall, at a minimum, be in conformance with these regulations and all applicable federal and city codes.

2. All towers and stealth monopoles shall be designed and constructed to collapse on themselves to minimize the impact on surrounding properties.

3. New towers or stealth monopoles shall be built, constructed or erected in the City to be capable of co-location. All new towers less than 100 feet in height and stealth monopoles shall provide space for at least two (2) separate providers. All new towers one-hundred (100) feet or higher in height shall provide space for at least three (3) separate providers.

- i. Antennas Mounted on Structures or Rooftops. The equipment cabinet or structure used in association with antennas shall comply with the following:
  1. The cabinet or structure shall not contain more than 300 square feet of gross floor area or be more than 10 feet in height. In addition, for buildings and structures which are less than sixty-five (65) feet in height, the related unmanned equipment structure, if over 100 square feet of gross floor area or six (6) feet in height, shall be located on the ground and shall not be located on the roof of the structure.
  2. If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than fifteen (15) percent of the roof area.
  3. Equipment storage buildings or cabinets shall comply with all applicable building codes.
- ii. Antennas Mounted on Utility Poles or Light Poles. The equipment cabinet or structure used in association with antennas shall be located in accordance with the following:
  1. In residential districts, the equipment cabinet or structure may be located:
    - a. In a front or side yard provided the cabinet or structure is no greater than six (6) feet in height or fifty (50) square feet of gross floor area and the cabinet/structure is located a minimum of twenty-five (25) feet from all lot lines. To allow for a future non-substantial change, the amount of additional space associated with such change shall be calculated and enough space allowed so that such change would continue to be outside the twenty-five (25) foot set back requirement.
    - b. In a rear yard, provided the cabinet or structure is no greater than eight (8) feet in height or 100 square feet in gross floor area, inclusive of any future non-substantial change to increase height or area. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least 36 inches.
  2. In commercial or industrial districts the equipment cabinet or structure shall be no greater than eight (8) feet and a planted height of at least 36 inches. In all other instances, structures or cabinets shall be screened from view of any and all residential properties which abut or are directly across the street from the structure or cabinet by a solid fence eight (8) feet in height or an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least 36 inches.
- iii. Antennas Located on Towers. The related unmanned equipment structure shall not continue more than 100 square feet of gross floor area or be more than eight (8) feet in height, and shall be located in accordance with the minimum yard requirements of the zoning district in which located.
- iv. Modification of Building Size Requirements. The requirements of this Section may be modified by the Zoning Administrator in the case of administratively approved

uses or by the Planning Commission in the case of uses permitted by special use in an effort to encourage collocation.

### **Section 17.10.12 USE LIMITATIONS**

1. **Stealth Design:** The City may require stealth design of a tower or telecommunications facility, in accordance with regulations, depending on the character of the proposed location and type of tower or telecommunications facility.
2. **Illumination:**
  - a. Towers shall not be artificially lighted except as required by the FAA.
  - b. Notwithstanding subsection (1), in the case of a stealth telecommunications structure, illumination may be provided that is appropriate and customary for the type of stealth structure, as approved by the Special Use process.
  - c. Security lighting may be installed around the base of a tower or accessory telecommunication facilities, provided the lighting is a full cut-off design to prevent direct light from being cast upon nearby property and to prevent glare on nearby public streets, as approved by the Special Use process.
3. **Security Fencing:** The City may require the installation of a security fence around all sides of a telecommunications structure located at ground level, and shall review and approve the material and design of any fencing to ensure that it will in fact serve to secure the facility.
4. **Screening and Landscaping:** All landscaping on a parcel of land containing wireless telecommunications facilities and/or antenna support structures shall conform to the applicable landscaping requirements, if any, in the zoning district where the structure is located. The City may require year-round landscaping and/or screening in order to reduce visual impacts and enhance the compatibility of telecommunications structure(s) with the character of nearby land uses and the area. Such screening may consist of walls, fencing and/or landscaping or combinations thereof, as approved by the City, but any such screening may be reviewed to determine that it does in fact screen the facility from view.
5. **Parking and Access.** The parcel of land upon which a telecommunications structure is located shall either contain at least one (1) off-street parking space on the site, or shall identify other permanently available off-street parking associated with the site.

### **Section 17.10.13 SIGNS**

1. **Signs Prohibited.** No signs, flyers, flags or banners, shall be permitted on any telecommunications structure, except as may be required by the FAA, FCC, other federal or state agency or the City. A flag may be hung on an approved stealth flagpole structure in accordance with regulations.
2. **Removal of Signs.** The owner shall remove any sign placed on any telecommunications structure in violation of this section within five (5) days of notice having been sent by the City.



3. Notwithstanding any contrary provisions of the city's zoning ordinance, the following warning signs shall be utilized in connection with the tower or antenna site, as applicable:
  - a. If high voltage is necessary for the operation of the tower or associated equipment, "HIGH VOLTAGE--DANGER" warning signs shall be permanently attached to each side of the fence or wall surrounding the structure.
  - b. "NO TRESPASSING" warning signs shall be permanently attached to the fence or wall surrounding the structure and spaced no more than forty (40) feet apart; (a) the height of the lettering of the warning signs shall be at least twelve (12) inches and the signs shall be installed at least five (5) feet above the finished grade; (b) the warning signs may be attached to freestanding poles if the content of the sign may be obstructed by landscaping.
  - c. A sign on the gate indicating the name and address of the tower owner and a phone number where the tower owner can be reached twenty-four (24) hours a day in case of an emergency shall be permanently attached to the fence.

#### **Section 17.10.14 STEALTH DESIGN FOR WIRELESS TELECOMMUNICATIONS FACILITIES**

1. Stealth wireless telecommunications facilities shall be designed to blend in with the character and environment of the area in which they are proposed to be located, and to enhance compatibility with nearby land uses by minimizing visual impacts. Stealth wireless telecommunications facilities shall incorporate the following design principles, as applicable to the type of telecommunications structure and character of the location:
  - a. Preserve the pre-existing character of the area as much as possible.
  - b. Minimize the height, mass and proportion of wireless telecommunications facilities to minimize impacts on the character of the nearby area.
  - c. Minimize the silhouette presented by new towers, stealth monopoles, antenna support structures and antenna arrays. Monopoles are favored over lattice-type towers; antennas mounted inside an antenna support structure or monopole, or mounted flush to the antenna support structure, are favored over triangular "top-hat" or other projecting external types of antenna arrays.
  - d. Use colors, textures and materials that blend in with the existing environment; surfaces shall be painted, or otherwise treated, to match or complement existing background structures and surfaces, and to minimize reflection.
  - e. Conceal telecommunication facilities from view by placing inside a building, steeple, penthouse, clock tower, flagpole or other appropriate structure. Architectural additions or appurtenances to existing antenna support structures that are intended to conceal telecommunication facilities, shall be designed to be appropriate in mass, scale, material, texture, color and character with the existing antenna support structure.
  - f. Camouflage and/or disguise wireless telecommunications facilities to look like

another type of structure or object, through methods including, but not limited to design, placement, use of materials, texture, color, year-round landscaping and screening, to blend in with the character of the surroundings, or integrate into the architectural elements and character of an existing antenna support structure to such an extent that it is indistinguishable by the casual observer from the structure on which it is located, or from the surroundings in which it is placed. Stealth monopoles designed to look like a flagpole shall utilize a flag that is appropriately sized for the height of the pole. Stealth monopoles disguised as a tree shall be of a height, character and placement that is appropriate to the location. Wireless telecommunications facilities mounted on roofs or similar structures shall be concealed from view by placement and setback from the edges and/or through use of architectural screening that is in character with the building or antenna support structure.

g. Locate wireless telecommunications facilities in areas where trees and/or buildings obscure some or all the wireless telecommunications facilities from view, and install new year-round landscaping and screening around the site where visible from public streets or residential areas.

h. Locate accessory equipment inside a building or in underground vaults when possible. Screen ground-level wireless telecommunications facilities through use of walls, fencing or year-round landscaping, or combinations thereof, which is appropriate in design, height and material to the character of the location and the structure to be screened.

#### **Section 17.10.15**      MODIFICATION AND REPLACEMENT

1. Modification to existing site. Up to fifty (50) percent of the height of an existing tower may be replaced with no substantial change in height as part of modifications made to provide for co-location of a new facility. Replacement of more than fifty (50) percent of a tower shall be considered a new tower and shall meet all of the applicable requirements for new construction.
2. Rebuilding damaged or destroyed existing site. If more than fifty (50) percent of the tower or facility is damaged or destroyed, it shall be considered a new facility and shall meet all the applicable requirements for new construction. All replacement shall comply with then applicable building codes and a new administrative approval or special use permit and building permit shall be obtained and be completed within one hundred eighty (180) days from the date the tower or facility was damaged or destroyed. If no permit is obtained or it expires, or replacement is not timely completed, the tower or facility shall be deemed abandoned.

#### **Section 17.10.16**      BUILDING PERMITS, INSPECTIONS AND CERTIFICATIONS

1. The applicant shall apply for and receive all applicable City permits prior to the construction of an antenna support structure or telecommunications structure. Wireless telecommunications facilities shall conform to the requirements of the applicable city codes and all other construction standards set forth by federal and state law. The City shall inspect the antenna support structure or telecommunications structure and issue a certificate of occupancy prior to use by the providers. It shall be a violation of this subsection for an owner to construct or use a telecommunications structure without the required permit, inspection or certificate of occupancy.

2. An engineer shall certify that all wireless telecommunications facilities are structurally sound. For new wireless telecommunications facilities, such certification shall be based upon the construction plans, and shall be submitted with an application. The City may require subsequent certifications if the City reasonably believes that the structural and/or electrical integrity of the telecommunications structure is jeopardized. Failure to comply within seven business days of such request shall be grounds for revoking such structure's occupancy permit, and ceasing operations until compliance is achieved.

#### **Section 17.10.17 ABANDONMENT**

1. The owner and/or provider of a telecommunications structure shall provide the City a copy of its notice to the FCC of intent to cease operations. The owner shall remove the structure at the owner's expense within one hundred and eighty (180) days from the date of abandonment. If the owner and/or provider fail(s) to provide the City with the proper notice of intent to cease operations, the structure may be declared a nuisance and dangerous structure in conformance with the City's nuisance code. Failure to remove the abandoned structure within ninety (90) days of issuance of notice that such facility has been declared a nuisance shall be grounds for the City to remove the structure with all costs of removing such dangerous and nuisance structure assessed against the landowner. The removal process shall be as set forth in the Bel Aire Code for removal of nuisance and/or dangerous buildings.

2. If the landowner further refuses to remove the structure as required, the City shall remove the structure and place a lien on the real property in the amount of all direct and indirect costs associated with the dismantling and disposal of the structure.

#### **Section 17.10.18 MAINTENANCE**

1. Owners shall employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries or nuisances to the public including sufficient anti-climbing and other measures to reduce the potential for trespass or injury.

2. Owners shall install and maintain wireless telecommunications facilities, fixtures and other equipment in compliance with the requirements of all federal, state and local codes and regulations, and in such manner that will not interfere with the use of other property.

3. All wireless telecommunications facilities shall be maintained in good condition, order and repair.

4. Licensed maintenance and construction personnel shall perform all maintenance and construction of wireless telecommunications facilities.

6. All wireless telecommunications facilities shall comply with the current RF emission standards, as determined by the FCC.

**Section 17.10.19**

1. FEES. The following fees shall apply:

Administrative Permit (New Cell Towers)	\$500.00
Administrative Permit (Modification of Existing Structures)	\$250.00
Right of Way, Wireless Facility Administrative Permit	\$250.00
Special Use Permit Application	\$500.00
Staff Review, Special Use Permit	\$40.00 per hour
Special Use Permit Deposit	\$1,000.00

2. Special Use Permit Deposit Process. The applicant shall submit with any Special Use Permit application, or at the time of converting an application for an administrative permit to a request for a Special Use Permit, an initial deposit of \$1,000.00 for each wireless facility location that is the subject of the application. After completing the preliminary review, the zoning administrator shall notify the applicant, in writing, of any additional information required to complete the review, and of any anticipated extraordinary costs or expenses for additional City staff time, postage and advertising, retention of expert or consultant assistance, or legal fees. If the zoning administrator identifies anticipated costs in excess of the deposit balance after payment of expenses incurred, the deposit shall be replenished or supplemented to the extent necessary to assure payment of the anticipated costs before the City shall incur those anticipated costs and before any further review of the application shall occur. At the conclusion of the permitting process a finalized statement shall be provided to the applicant, all deposit monies held by City in excess of actual costs shall be returned to the applicant.

**Section 17.10.20 ENFORCEMENT.** It shall be the duty of the City Manager to appoint a Code Enforcement Officer, who shall enforce all provisions of this sign code. It shall be unlawful for any person to interfere with any City Official in the performance of the duties assigned under this sign code.

**Section 17.10.21 PENALTY.** In addition to any other enforcement action or nuisance abatement action, the municipal court is hereby authorized, upon proper motion, empowered and directed to abate or suppress any violation of this article and for the purpose of carrying out the provisions of this section, the municipal court is hereby authorized, after giving proper notice, to give to any city law enforcement officer or health officer the right to enter into or upon any premises or establishment for the purpose of making thorough examinations and for the further purposes of causing any violations to be abated or suppressed. Any person convicted of a violation of this article shall be punished by a fine in accordance with the general penalty provisions set out in Chapter 1, Article 2 of this code. Each day that any violation of this article continues shall constitute a separate offense and be punishable hereunder as a separate violation.

**Article 11 INCORPORATION WICHITA-SEDG. COUNTY UBTC**

**Section 17.11.1 Adopting Selected Portions of Unified Building and Trade Code**

**Section 17.11.2 Availability of  
Copies Section 17.11.3 Effective Date**

**Section 17.11.1 Adopting Selected Portions of Unified Building and Trade Code**

All amendments to the International Residential Code, National Electrical Code, and International Mechanical Code, as set forth in that Resolution of the Board of County Commissioners of Sedgwick County, Kansas, of November, 21, 2012, adopting The Wichita-Sedgwick County Unified Building and Trade Code, to be made effective January 1, 2013, are hereby adopted, unless otherwise noted within this Chapter, and all fee schedules included within the Wichita-Sedgwick County Unified Building and Trade Code, unless otherwise set forth within the City’s adopted fee schedule, are hereby adopted and by reference incorporated herein and made a part of this Code as though set forth at length herein, and shall be referred to herein as the “amendments” to the above standardized codes adopted within this Chapter. Subsequent amendments to the Residential Code, Commercial Code, Electrical Code, Plumbing and Gas Fitting Code, and Mechanical Code within the Unified Building and Trade Code adopted by Resolution of the Board of County Commission, are hereby incorporated herein. For purposes of application within the City of Bel Aire, all references within the Wichita-Sedgwick County Unified Building and Trade Code to the Metropolitan Area Building and Construction Department, or the MABCD, as a contact agency/agent, or enforcement agency/agent shall be understood to be referring to the Code Enforcement official designated by the City of Bel Aire.

**Section 17.11.2 Availability of copies.**

One copy of said standard code, along with the amendments set forth in that Resolution of the Sedgwick County Commission as described in 17.6.1 above, as currently incorporated into the Unified Building and Trade Code which is adopted through Article 11 of this Chapter, have been and are now filed in the office of the City Clerk, and the said code is adopted and incorporated as if fully set out herein at length as authorized in the manner provided by K.S.A. 12-3009, et seq.

**Section 17.11.3 Effective Date.**

The above adopted code shall be phased in from the date of its adoption until July 1, 2016, to allow for conclusion of projects being completed in conformance with the previously adopted standardized code. New projects may be licensed and permitted using either the above described code or the formally applicable code, whichever is most appropriate to the project and the stage of the development of the project in the discretion of the Code Enforcement Officer. On and after July 1, 2016, no project shall be approved except in conformance with the above described code.

<b>Article 12</b>	<b>EROSION CONTROLS</b>
Section 17.12.1	Erosion Controls Required
Section 17.12.2	Erosion Clean Up
Section 17.12.3	Notice of Erosion Violation
Section 17.12.10	Notice to Abate
Section 17.12.5	Failure to Abate
Section 17.12.6	Abatement by City
Section 17.12.7	Assessment of Costs
Section 17.12.8	Assessment to Tax Rolls
Section 17.12.9	Other Means of Collection

**Section 17.12.1 Erosion Controls Required**

Property shall be maintained so that mud, silt, gravel, dust, or other debris will not leave private property and enter upon the property of another, or upon the rights of way, drainage easements, alleys, or other property of the City, due to erosion of any kind (hereinafter collectively referred to as "erosion"). Any person, partnership, corporation or its agent, either as owner of, occupant of, or building permit holder for construction on any lot or tract of land within the city (hereinafter "Responsible Party"), who has failed to maintain said land in such a way, or has failed to install or apply effective control measures to prevent erosion, shall be required, after service of notice as hereinafter provided, to take remedial action on said land to prevent the occurrence or recurrence of such conditions. Remedial action shall include, but not be limited to, the installation or application of effective erosion control measures. (Ord. 390)

**Section 17.12.2 Erosion Clean Up**

When failed or absent erosion control has resulted in mud, silt, gravel, dust or other debris entering into the public rights of way, drainage easements, alleys, or other property of the city, the remedial action required also shall include the cleaning up and removal of said debris. (Ord. 390)

**Section 17.12.3 Notice of Erosion Violation**

Whenever the city inspector, finds evidence of erosion, the city shall give written and/or oral notice of the violation to a Responsible Party. Such notice shall specify the conditions to be abated, the remedial action to be taken, and direct that the Responsible Party take action within three (3) days after service of such notice to install effective erosion control. Working days shall be defined as Monday through Friday, exclusive of official holidays recognized by the City of Bel Aire, Kansas. (Ord. 390)

**Section 17.12.10 Notice to Abate**

Such notice shall also direct that the Responsible Party remove any dirt, debris or mud that has been deposited in the rights of way, drainage easements, alleys, or other properties owned by the city, within 24 hours after service of such notice. Notice may be given in person, by posting at the site, by telephone call, or by facsimile. Failure to receive said notice shall not be an issue or defense

in any action. (Ord. 390)

**Section 17.12.5 Failure to Abate**

Failure to abate the conditions specified in the notice within three (3) days after service of such notice shall constitute an unlawful act and a violation of the provisions of this Chapter. Each day that any violation of the foregoing provisions shall continue shall constitute a separate offense. (Ord. 390)

**Section 17.12.6 Abatement by City**

If, upon the exercise of due diligence, the city is unable to notify any Responsible Party, or if, upon notification, such Responsible Party is unable, unwilling, or fails to remedy the conditions specified in the notice, within the time frame specified above, the city may proceed to install or apply effective erosion control measures and to clean up and remove mud, silt, gravel, dust, or other debris that has entered into the public rights of way, drainage easements, alleys, or other property of the city. (Ord. 390)

**Section 17.12.7 Assessment of Costs**

Whenever conditions are abated by the city as described above, costs for the abatement and cleanup may be assessed as follows. The city shall keep a record of the total cost of such abatement or removal incurred by the city, and shall bill such costs to the Responsible Party by certified mail, return receipt requested. (Ord. 390)

**Section 17.12.8 Assessment to Tax Rolls**

If the assessment for such costs is unpaid after thirty (30) days from the date of billing, the City Clerk, at the time of certifying other city taxes, shall certify such costs to the County Clerk, with instructions to extend the same on the tax roll of the County against the applicable lot or parcel of ground, and ask that it be collected by the County Treasurer and paid to the city as other city taxes are collected and paid. (Ord. 390)

**Section 17.12.9 Other Means of Collection**

Nothing in this section shall limit the city's right to pursue collection both by levying a special assessment and in any other manner provided for by law, but only until the full cost and any applicable interest has been paid in full. (Ord. 390)

**Article 13 ADOPTION OF PROPERTY MAINTENANCE CODE**

**Section 17.13.1 Adoption of the International Property Maintenance Code**

**Section 17.13.2 Amendments**

### **Section 17.13.1 Adoption of the International Property Maintenance Code**

There is hereby incorporated by reference for the purpose of establishing standards for the protection of the public health, safety and welfare in all existing structures within the corporate city limits of the City of Bel Aire, Kansas, that standard property maintenance code known as the International Property Maintenance Code, 2015 Edition, including Appendix A, as recommended by the International Code Council, 500 New Jersey Avenue, NW 6<sup>th</sup> Floor, Washington, DC, 20001, save and except such articles, sections, parts or portions as may be hereinafter omitted, deleted, modified or changed. No fewer than one (1) copy of such publication shall be marked or stamped "Official Copy as adopted by Ordinance No. 7024", and shall be attached to a copy of this ordinance and filed with the city clerk and open for inspection and available to the public at all reasonable hours. All administrative departments of the city charged with enforcement of this code shall be supplied, at the cost of the city, such number of official copies, similarly marked, as may be deemed expedient.

### **Section 17.13.2 Amendments**

The International Property Maintenance Code, adopted by Section 17.13.1, is hereby changed, altered, modified and otherwise amended as follows:

1. Section 101.1 of the International Property Maintenance Code is hereby changed to read as follows:  
**Section 101.1 Title.** These regulations shall be known as the International Property Maintenance Code, of the City of Bel Aire, Kansas, hereinafter referred to as the International Property Maintenance Code or "this code."
2. Section 102.3 of the International Property Maintenance Code is hereby changed to read as follows:  
**Section 102.3 Application of other codes.** Repairs, alterations, additions to a structure, or changes of occupancy, shall be done in accordance with the Building, Residential, Plumbing, Mechanical, Fuel Gas, Existing Buildings or Electrical Codes as applicable and as adopted by the City of Bel Aire, Kansas.
3. Section 103.4.1 is hereby amended to read as follows:  
103.4.1 Legal Defense. Any suit or criminal complaint instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the City in accordance with the provisions of the Kansas Tort Claims Act, K.S.A. 75-6101 et seq.
4. 103.5 of the International Property Maintenance Code is hereby deleted.
5. Section 106.4 of the International Property Maintenance Code is hereby changed to read as follows:



**Section 106.4 Penalty.** Any person, firm, or corporation who shall violate any provision of this code shall, upon conviction thereof, be subject to a fine of not more than five hundred dollars (\$500.00) or imprisonment for a term not to exceed six months, or by both fine and imprisonment, at the discretion of the court. Each day that a violation continues after due notice has been served, in accordance with the terms and provisions hereof, shall be deemed a separate offense.

6. Section 111.1 of the International Property Maintenance Code is hereby changed to read as follows:

**Section 111.1 Application for appeal.** Any person affected by any notice which has been issued in connection with the enforcement of any provision of this code, or any rule or regulation adopted pursuant thereto, may request and shall be granted a hearing on the matter before the housing appeals board; provided that such person shall file, with the code official, a written petition requesting such hearing and containing a statement of the grounds therefore not more than fifteen (15) days after the notice was served. When such a hearing is requested, a filing fee of forty dollars (\$40.00) shall be made to the code official.

7. Section 111.2 of the International Property Maintenance Code is hereby changed to read follows:

**Section 111.2 Appeals Board.**

- a. In order to provide a body to hear appeals pursuant to Section 111.1 and to hear requests for variances pursuant to Section 111.3, the Mayor is hereby authorized to appoint a Housing Appeals Board, which may hereinafter be known as the “Board”.
  - b. The Board shall consist of three (3) members who shall be appointed by the mayor.
  - c. The members of the Board shall be residents and electors of the city, and not employees of the city.
  - d. The term of appointment of the members of the Board shall be for that term necessary to hear and review of the applicable appeal.
  - e. The board shall choose a chairperson, and shall render all decisions and findings in writing to the appellant, or to the applicant for a variance, with a copy to the Secretary. A majority of the members of the Board shall constitute a quorum. The code official shall appoint one (1) member of the department who shall act as secretary to the board. The meetings may be called by either the chairperson or the secretary.
8. Sections 111.2.1, 111.2.2, 111.2.3, 111.2.4 and 111.2.5 of the International Property Maintenance Code are hereby deleted.
  9. Section 111.3 of the International Property Maintenance Code is hereby changed to read as follows:

**Section 111.3 Procedure for variances.** In addition to any other authority granted to the

board, said board may grant to the owners of the real property, variances from the obligation to comply with the minimum standards set forth within this code.

The board shall not grant a variance as authorized by this Section unless it shall make specific written findings of fact that:

- a. The strict enforcement of the minimum standards would result in unreasonable or unnecessary hardship upon the owner;
- b. The granting of the variance will not adversely affect the rights of adjacent property owners or residents;
- c. The variance desired will not adversely affect the public health, safety, morals, order, convenience, property or general welfare; and
- d. Granting the variance desired will not be opposed to the general spirit and intent of the code.

10. Section 111.4 of the International Property Maintenance Code is hereby changed to read as follows

**Section 111.4 Vote.** The board shall hear all appeals relative to the enforcement of this code, and all requests for variances, and by concurring vote of a majority of those present shall reverse or affirm wholly or partly, or modify, the decision appealed from, or shall grant or deny the variance, and shall make such order or determination as in the opinion of the board ought to be made consistent with the authority granted to them by this code.

11. Section 111.5 of the International Property Maintenance Code is hereby changed to read as follows:

**Section 111.5 Financial or Personal Interest.** A member of the board shall not participate in any hearings or vote on any appeal, or request for a variance, in which that member has a direct or indirect financial interest, or is engaged as a contractor, or is engaged in the preparation of plans and specifications, or in which that member has any personal interest.

12. Section 111.6 of the International Property Maintenance Code is hereby changed to read as follows:

**Section 111.6 Records.** The secretary of the board shall keep a record of each meeting so that the record shows clearly the basis for each decision made by the board.

13. Section 112.4 of the International Property Maintenance Code is hereby changed to read as follows:

**Section 112.4 Failure to Comply.** Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not more than five hundred dollars (\$500.00) or imprisonment for a term not to exceed one hundred eighty (180) days, or by both fine and imprisonment, at the discretion of the court. Each day that a violation continues after due notice has been served, in accordance with the terms and provisions hereof, shall be deemed a separate offense.

14. Section 202 of the International Property Maintenance Code is hereby changed to add the following definition: **Family:** Either (a) an individual or two (2) or more persons related by blood, marriage, or adoption, or under foster care established by governmental action, living together as a single housekeeping unit; or (b) a group of not more than four (4) persons some of which are not related by blood, marriage or adoption, living together as a single housekeeping unit. There shall be a rebuttable presumption that (5) or more people living together as a single housekeeping unit are not a family.
15. Section 202 of the International Property Maintenance Code is hereby changed to amend the following definition:  
**Dwelling Unit:** A single unit providing complete, independent living facilities for one (1) family, including permanent provisions for living, sleeping, eating, cooking and sanitation.
16. Section 302.4 of the International Property Maintenance Code is hereby deleted.
17. Section 302.8 of the International Property Maintenance Code is hereby deleted.
18. Section 304.14 of the International Property Maintenance Code is hereby changed to read as follows:  
**Section 304.14 Insect Screens.** During the period from April 1 to December 1, every door, window and other outside opening used or required for ventilation purposes serving any building containing habitable rooms, food preparation areas, food service areas, or any areas where products used in food for human consumption are processed, manufactured, packaged, or stored, shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch.
19. Section 304.18.1 of the International Property Maintenance Code is hereby changed to read as follows:  
**Section 304.18.1 Doors.** All exterior doors, door assemblies and hardware shall be maintained in good condition. Locks at all entrances to dwelling units, rooming units and guestrooms shall tightly secure the door. Locks on means of egress doors shall be in accordance with section 702.3.
20. Section 402.1 of the International Property Maintenance Code is hereby changed to read as follows:  
**Section 402.1 Habitable Spaces.** Every habitable space shall have at least one (1) window of approved size facing directly to the outdoors or to a court. The minimum total window area, measured between stops, for every habitable space shall be five (5) square feet, except when artificial light and ventilation may be provided in accordance with the provisions of the building or residential code. Whenever walls or other portions of a structure face a window of any room and such obstructions are located less than three (3) feet from the window and extend to a level above that of the ceiling of the room, such a window shall

not be deemed to face directly to the outdoors not to a court and shall not be included as contributing to the required minimum total window area for the room.

21. Section 402.2 of the International Property Maintenance Code is hereby changed to read as follows:

**Section 402.2 Common halls and stairways.** Every common hall and stairway, other than in one and two-family dwellings, shall be capable of being lighted at all times with at least a 60 watt standard incandescent light bulb or equivalent (sufficient natural light shall serve as an equivalent) for each 200 square feet (19 square meters) of floor area, provided that the spacing between lights shall not be greater than 30 feet (9,144 mm). Every exterior stairway shall be illuminated with a minimum of one foot candle (11 lux) at floors, landings and treads.

22. Section 404.2 of the International Property Maintenance Code is hereby changed to read as follows:

**Section 404.2 Minimum room widths.** A habitable room, other than a kitchen, shall not be less than 7 feet (2,133mm) in any plan dimension. Kitchens shall have a clear passageway of not less than 2 feet (762mm) between counter fronts and appliances or counter fronts and walls.

23. Section 404.3 of the International Property Maintenance Code is hereby changed to read as follows:

**Section 404.3 Minimum Ceiling Heights.** Habitable spaces, hallways, corridors, laundry areas, bathrooms, toilet rooms and habitable basement areas shall have a clear ceiling height of not less than 7 feet (2134 mm).

**Exceptions:**

1. Beams, girders or similar obstructions spaced not less than 4 feet on center and projecting not more than 6 inches below the required ceiling height.
  2. Basement rooms having a ceiling height of not less than 6 feet 8 inches with not less than 6 feet 4 inches of clear height under beams, girders, ducts and similar obstructions.
  3. Rooms occupied exclusively for sleeping, study or similar purposes and having a sloped ceiling over all or part of the room, with a clear ceiling height of at least 7 feet over not less than one third of the minimum required floor area. In calculating the floor area of such rooms, only those portions of the floor area with a ceiling height of at least 5 feet or more shall be included.
24. Section 404.4.1 of the International Property Maintenance Code is hereby changed to read as follows:

**Section 404.4.1 Room Area.** Every living room shall contain at least 120 square feet and

every bedroom shall contain at least 70 square feet.

25. Section 404.5 of the International Property Maintenance Code is hereby changed to read as follows:

**Section 404.5 Overcrowding.** The number of persons occupying a dwelling unit shall not create conditions that, in the opinion of the code official, endanger the life, health, safety or welfare of the occupants.

26. Sections 404.5.1 and 404.5.2 of the International Property Maintenance Code are hereby deleted.

27. Section 502.4.1 of the International Property Maintenance Code is hereby changed to read as follows:

**Section 502.4.1 Drinking facilities.** Drinking facilities shall be a drinking fountain, water cooler, bottled water cooler, or disposable cups next to a sink or water dispenser. Drinking facilities within drinking or dining establishments or wholesale or retail grocery stores shall not be located in toilet rooms or bathrooms.

28. Section 506.3 of the International Property Maintenance Code is hereby deleted.

29. Section 602.3 of the International Property Maintenance Code is hereby changed to read as follows:

**Section 602.3 Heat Supply.** Every owner and operator of any building who rents, leases or lets one or more dwelling unit, rooming unit, dormitory or guest room on terms, either express or implied, to furnish heat to the occupants thereof shall supply sufficient heat during the period from October 1 to May 15 to maintain a room temperature of not less than 65 degrees Fahrenheit (18 degrees Celsius) in all habitable rooms, bathrooms and toilet rooms during the hours between 6:30 a.m. and 10:30 p.m. of each day and not less than 60 degrees Fahrenheit (16 degrees Celsius) during other hours. The temperature shall be measured at a point 3 feet (914mm) above the floor and 3 feet (914mm) from the exterior walls.

30. Section 602.4 of the International Property Maintenance Code is hereby changed to read as follows:

**Section 602.4 Occupiable work spaces.** Every enclosed occupied work space shall be supplied with sufficient heat during the period from October 1 to May 15 to maintain a temperature of not less than 65 degrees Fahrenheit (18 degrees Celsius) during all working hours. The temperature shall be measured at a point 3 feet (914 mm) above the floor and 3 feet (914 mm) from the exterior walls.

**Exceptions:**

1. Processing, storage and operation areas that require cooling or special temperature conditions.

2. Areas in which persons are primarily engaged in vigorous physical activities.
31. Section 604.2 of the International Property Maintenance Code is hereby changed to read as follows:
- Section 604.2 Service.** The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with the National Electrical Code as adopted in Section 8-47 of the city Municipal Code. Dwelling units shall be served by a three wire, 120 / 240 volt, single phase electrical service having a rating of not less than 60 amperes.
32. Section 702.4 of the International Property Maintenance Code is hereby changed to read as follows:
- Section 702.4 Emergency escape openings.** Every sleeping room located in a basement in an occupancy in Use Group I-1 or R shall have at least one openable window or exterior door approved for emergency egress or rescue; or shall have access to not less than two approved independent exits.
- Exception:**
- Buildings equipped throughout with an automatic fire suppression system may have fixed windows in accordance with the International Building Code.
- An approved emergency escape or rescue window shall have a minimum clear opening width and height of 18 inches, a minimum total clear openable area of 4 square feet, and a maximum sill height above floor level of 48 inches. Permanently installed step(s) may be used to attain maximum sill height. Such step(s) must have a minimum tread of 12 inches and a maximum riser height of 16 inches. Emergency escape or rescue windows wells shall be a minimum of 24 inches measured from the exterior wall of the structure to the inside of the well and shall be at least as wide as the window.