

FLOODPLAIN MANAGEMENT ORDINANCE
Pursuant to 44 CFR § 60.3 (d) - Regulatory Floodway Identified,
K.S.A. 12-766, and K.A.R. 5-44-1 through 5-44-7

ORDINANCE No. 21-01

ARTICLE 1 STATUTORY AUTHORIZATION, FINDINGS OF FACT, AND PURPOSES

SECTION A. STATUTORY AUTHORIZATION

1. *Approval of Draft Ordinance by Kansas Chief Engineer Prior to Adoption*

The following floodplain management regulations, as written, were approved in draft form by the Chief Engineer of the Division of Water Resources of the Kansas Department of Agriculture on December 22, 2020.

2. *Kansas Statutory Authorization*

The Legislature of the State of Kansas has in K.S.A. 12-741 *et seq*, and specifically in K.S.A. 12-766, delegated the responsibility to local governmental units to adopt floodplain management regulations designed to protect the health, safety, and general welfare of the public. Therefore, the City Council of the City of South Hutchinson, Kansas, ordains as follows:

SECTION B. FINDINGS OF FACT

1. *Flood Losses Resulting from Periodic Inundation*

The special flood hazard areas of South Hutchinson, Kansas, are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base; all of which adversely affect the public health, safety and general welfare.

2. *General Causes of the Flood Losses*

These flood losses are caused by (1) the cumulative effect of development in any delineated floodplain causing increases in flood heights and velocities; and (2) the occupancy of flood hazard areas by uses vulnerable to floods, hazardous to others, inadequately elevated, or otherwise unprotected from flood damages.

3. *Methods Used To Analyze Flood Hazards*

The Flood Insurance Study (FIS) that is the basis of this ordinance uses a standard engineering method of analyzing flood hazards, which consist of a series of interrelated steps.

- a. Selection of a base flood that is based upon engineering calculations, which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood selected for this ordinance is representative of large floods, which are characteristic of what can be expected to occur on the particular streams subject to this ordinance. The base flood is the flood that is estimated to have a one percent chance of being equaled or exceeded in any one year as delineated on the Federal Insurance Administrator's FIS, and illustrative materials dated January 29, 2021 as amended, and any future revisions thereto.
- b. Calculation of water surface profiles that are based on a standard hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood.
- c. Computation of a floodway required to convey this flood without increasing flood heights more than one (1) foot at any point.
- d. Delineation of floodway encroachment lines within which no development is permitted that would cause any increase in flood height.
- e. Delineation of flood fringe, i.e., that area outside the floodway encroachment lines, but still subject to inundation by the base flood.

SECTION C. STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety, and general welfare of the public; to minimize those losses described in Article 1, Section B(1); to establish or maintain the community's eligibility for participation in the National Flood Insurance Program (NFIP) as defined in 44 Code of Federal Regulations (CFR) § 59.22(a)(3); and to meet the requirements of 44 CFR § 60.3(d) and K.A.R. 5-44-4 by applying the provisions of this ordinance to:

1. Restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities;
2. Require uses vulnerable to floods, including public facilities that serve such uses, be provided with flood protection at the time of initial construction; and
3. Protect individuals from buying lands that are unsuited for the intended development purposes due to the flood hazard.

ARTICLE 2 GENERAL PROVISIONS

SECTION A. LANDS TO WHICH ORDINANCE APPLIES

This ordinance shall apply to all lands within the jurisdiction of the City of South Hutchinson, in Reno County, Kansas identified as numbered and unnumbered A Zones, AE, AO and AH Zones on the Flood Insurance Rate Map (FIRM) panels referenced on the associated FIRM Index dated January 29, 2021 as amended, and any future revisions thereto. In all areas covered by this ordinance, no development shall be permitted except through the issuance of a floodplain development permit, granted by the City

Council or its duly designated representative under such safeguards and restrictions as the City Council or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community, and as specifically noted in Article 4.

SECTION B. COMPLIANCE

No development located within the special flood hazard areas of this community shall be located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

SECTION C. ABROGATION AND GREATER RESTRICTIONS

It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

SECTION D. INTERPRETATION

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, shall be liberally construed in favor of the governing body, and shall not be deemed a limitation or repeal of any other powers granted by Kansas statutes.

SECTION E. WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas outside the floodway and flood fringe or land uses permitted within such areas will be free from flooding or flood damage. This ordinance shall not create a liability on the part of The City of South Hutchinson, any officer or employee thereof, for any flood damages that may result from reliance on this ordinance or any administrative decision lawfully made there under.

SECTION F. SEVERABILITY

If any section; clause; provision; or portion of this ordinance is adjudged unconstitutional or invalid by a court of appropriate jurisdiction, the remainder of this ordinance shall not be affected thereby.

ARTICLE 3 ADMINISTRATION

SECTION A. FLOODPLAIN DEVELOPMENT PERMIT

A floodplain development permit shall be required for all proposed construction or other development, including the placement of manufactured or mobile homes, in the areas described in Article 2, Section A. No person, firm, corporation, or unit of government shall initiate any development or substantial-improvement or cause the same to be done without first obtaining a separate floodplain development permit for each structure or other development.

SECTION B. DESIGNATION OF FLOODPLAIN ADMINISTRATOR

The Municipal Floodplain Administrator is hereby appointed to administer and implement the provisions of this ordinance.

SECTION C. DUTIES AND RESPONSIBILITIES OF FLOODPLAIN ADMINISTRATOR

Duties of the Floodplain Administrator shall include, but not be limited to:

1. Review of all applications for floodplain development permits to assure that sites are reasonably safe from flooding and that the floodplain development permit requirements of this ordinance have been satisfied;
2. Review of all applications for floodplain development permits for proposed development to assure that all necessary permits have been obtained from Federal, State, or local governmental agencies from which prior approval is required by Federal, State, or local law;
3. Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding;
4. Issue floodplain development permits for all approved applications;
5. Notify adjacent communities and the Division of Water Resources, Kansas Department of Agriculture, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);
6. Assure that the flood-carrying capacity is not diminished and shall be maintained within the altered or relocated portion of any watercourse; and
7. Verify and maintain a record of the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures;
8. Verify and maintain a record of the actual elevation (in relation to mean sea level) that the new or substantially improved non-residential structures have been floodproofed;
9. When floodproofing techniques are utilized for a particular non-residential structure, the floodplain administrator shall require certification from a registered professional engineer or architect.

SECTION D. APPLICATION FOR FLOODPLAIN DEVELOPMENT PERMIT

To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every floodplain development permit application shall:

1. Describe the land on which the proposed work is to be done by lot, block and tract, house and street address, or similar description that will readily identify and specifically locate the proposed structure or work;
2. Identify and describe the work to be covered by the floodplain development permit;
3. Indicate the use or occupancy for which the proposed work is intended;
4. Indicate the assessed value of the structure and the fair market value of the improvement;
5. Specify whether development is located in designated flood fringe or floodway;
6. Identify the existing base flood elevation and the elevation of the proposed development;
7. Give such other information as reasonably may be required by the floodplain administrator;
8. Be accompanied by plans and specifications for proposed construction; and
9. Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.

ARTICLE 4 PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A. GENERAL STANDARDS

1. No permit for floodplain development shall be granted for new construction, substantial-improvements, and other improvements, including the placement of manufactured or mobile homes, within any numbered or unnumbered A zones, AE, AO, and AH zones, unless the conditions of this section are satisfied.
2. All areas identified as unnumbered A zones on the FIRM are subject to inundation of the one percent annual chance or 100-year flood; however, the base flood elevation is not provided. Development within unnumbered A zones is subject to all provisions of this ordinance. If Flood Insurance Study data is not available, the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from Federal, State, or other sources.
3. Until a floodway is designated, no new construction, substantial improvements, or other development, including fill, shall be permitted within any unnumbered or numbered A zones, or AE zones on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
4. All new construction, subdivision proposals, substantial-improvements, prefabricated structures, placement of manufactured or mobile homes, and other developments shall require:

- a. Design or adequate anchorage to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- b. Construction with materials resistant to flood damage;
- c. Utilization of methods and practices that minimize flood damages;
- d. All electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- e. New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination; and
- f. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, located within special flood hazard areas are required to assure that:
 - (1) All such proposals are consistent with the need to minimize flood damage;
 - (2) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;
 - (3) Adequate drainage is provided so as to reduce exposure to flood hazards; and
 - (4) All proposals for development, including proposals for manufactured home parks and subdivisions, of greater than five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals base flood elevation data.

5. *Storage, Material, and Equipment*

- a. Storage of material or equipment may be allowed if not subject to major damage by floods, if firmly anchored to prevent flotation, or if readily removable from the area within the time available after a flood warning.

6. *Nonconforming Use*

A structure, or the use of a structure or premises that was lawful before the passage or amendment of the ordinance, but which is not in conformity with the provisions of this ordinance, may be continued subject to the following conditions:

- a. If such structure, use, or utility service has been or is discontinued for six consecutive months, any future use of the building shall conform to this ordinance.

- b. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the pre-damaged market value of the structure. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, safety codes, regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination.

7. *Accessory Structures*

Structures used solely for parking and limited storage purposes, not attached to any other structure on the site, of limited investment value, and not larger than 400 square feet, may be constructed at-grade and wet-floodproofed provided there is no human habitation or occupancy of the structure; the structure is of single-wall design; the accessory structure meets the following floodplain management requirements; and a floodplain development permit has been issued. Wet-floodproofing is only allowed for small low cost structures.

Any permit granted for an accessory structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Permits shall meet the following conditions.

In order to minimize flood damages during the one percent annual chance flood event, also referred to as the 100-year flood and the threat to public health and safety, the following conditions shall be required for any permit issued for accessory structures that are constructed at-grade and wet-floodproofed:

- a. Use of the accessory structures must be solely for parking and limited storage purposes in any special flood hazard area as identified on the community's Flood Insurance Rate Map (FIRM).
- b. For any new or substantially damaged accessory structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with Article 4, Section A (4)(b) of this ordinance.
- c. The accessory structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure in accordance with Article 4, Section A (4)(a) of this ordinance. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.
- d. Any mechanical, electrical, or other utility equipment must be located above the base flood elevation or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with Article 4, Section A (4)(d) of this ordinance.
- e. The accessory structures must meet all NFIP opening requirements. The NFIP requires that enclosure or foundation walls, subject to the one percent annual chance flood event, also referred to as the 100-year flood, contain openings that will permit the automatic entry and exit of flood waters in accordance with Article 4, Section B (1)(c) of this ordinance.
- f. The accessory structures must comply with the floodplain management floodway encroachment provisions of Article 4, Section E (2) of this ordinance. No permits may be issued for accessory

structures within any designated floodway, if any increase in flood levels would result during the 100-year flood.

- g. Equipment, machinery, or other contents must be protected from any flood damage.
- h. No disaster relief assistance under any program administered by any Federal agency shall be paid for any repair or restoration costs of the accessory structures.
- i. Wet-floodproofing construction techniques must be reviewed and approved by the community. The community may request approval by a registered professional engineer or architect prior to the issuance of any floodplain development permit for construction. Cost for any required professional certification to be paid by the developer.

8. *Hazardous Materials*

All hazardous material storage and handling sites shall be located out of the special flood hazard area.

SECTION B. SPECIFIC STANDARDS

- 1. In all areas identified as numbered and unnumbered A zones, AE, and AH Zones, where base flood elevation data have been provided, as set forth in Article 4, Section A(2), the following provisions are required:

- a. *Residential Construction*

New construction or substantial-improvement of any residential structures, including manufactured or mobile homes, shall have the lowest floor, including basement, elevated a minimum of one (1) foot above base flood elevation. Mechanical and HVAC equipment servicing the building must be elevated or flood protected to same level as the lowest floor. The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.

- b. *Non-Residential Construction*

New construction or substantial-improvement of any commercial, industrial, or other non-residential structures, including manufactured or mobile homes, shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below one foot above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Mechanical and HVAC equipment servicing the building must be elevated or flood protected to same level as the lowest floor. A registered professional engineer or architect shall verify that the standards of this subsection are satisfied. The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.

Such certification shall be provided to the floodplain administrator as set forth in Article 3, Section C(7)(8)(9).

c. *Enclosures Below Lowest Floor*

Require, for all new construction and substantial-improvements, that fully enclosed areas below lowest floor used solely for parking of vehicles, building access, or storage in an area other than a basement and that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

- (1) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided; and
- (2) The bottom of all opening shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

SECTION C. MANUFACTURED or MOBILE HOMES

1. All manufactured or mobile homes to be placed within all unnumbered and numbered A zones, AE, and AH zones, on the community's FIRM shall be required to be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured or mobile homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
2. Require manufactured or mobile homes that are placed or substantially improved within unnumbered or numbered A zones, AE, and AH zones, on the community's FIRM on sites:
 - a. Outside of a manufactured home park or subdivision;
 - b. In a new manufactured home park or subdivision;
 - c. In an expansion to an existing manufactured home park or subdivision; or
 - d. In an existing manufactured home park or subdivision on which a manufactured or mobile home has incurred substantial-damage as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated a minimum of one (1) foot above the base flood elevation and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. Mechanical and HVAC equipment servicing the building must be elevated or flood protected to same level as the lowest floor. The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.

3. Require that manufactured or mobile homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within all unnumbered and numbered A zones, AE and AH zones, on the community's FIRM, that are not subject to the provisions of Article 4, Section C(2) of this ordinance, be elevated so that:
 - a. The lowest floor of the manufactured or mobile home is a minimum of one (1) foot above the base flood level. Mechanical and HVAC equipment servicing the building must be elevated or flood protected to same level as the lowest floor. The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.

SECTION D. AREAS OF SHALLOW FLOODING (AO and AH zones)

Located within the areas of special flood hazard as described in Article 2, Section A are areas designated as AO zones. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. The following provisions apply:

1. *AO Zones*

- a. All new construction and substantial-improvements of residential structures, including manufactured or mobile homes, shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two (2) feet if no depth number is specified).
- b. All new construction and substantial-improvements of any commercial, industrial, or other non-residential structures, including manufactured or mobile homes, shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community FIRM (at least two (2) feet if no depth number is specified) or together with attendant utilities and sanitary facilities be completely floodproofed to that so that the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- c. Adequate drainage paths shall be required around structures on slopes, in order to guide floodwaters around and away from proposed structures.

2. *AH Zones*

- a. The specific standards for all areas of special flood hazard where base flood elevation has been provided shall be required as set forth in Article 4, Section B.
- b. Adequate drainage paths shall be required around structures on slopes, in order to guide floodwaters around and away from proposed structures.

SECTION E. FLOODWAY

Located within areas of special flood hazard established in Article 2, Section A, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris and potential projectiles, the following provisions shall apply:

1. The community shall select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood without increasing the water surface elevation of that flood more than one (1) foot at any point.
2. The community shall prohibit any encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
3. A community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a conditional FIRM and floodway revision, fulfills the requirements for such revisions as established under the provisions of 44 CFR 65.12, and receives the approval of FEMA.

4. If Article 4, Section E(2), is satisfied, all new construction and substantial-improvements shall comply with all applicable flood hazard reduction provisions of Article 4.
5. In unnumbered A zones, the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from Federal, State, or other sources as set forth in Article 4, Section A(2).

SECTION F. RECREATIONAL VEHICLES

Require that recreational vehicles placed on sites within all unnumbered and numbered A Zones, AE, AH, and AO Zones on the community's FIRM either:

1. Be on the site for fewer than 180 consecutive days, or
2. Be fully licensed and ready for highway use*; or
3. Meet the permitting, elevation, and anchoring requirements for manufactured homes of this ordinance.

*A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.

ARTICLE 5 FLOODPLAIN MANAGEMENT VARIANCE PROCEDURES

SECTION A. ESTABLISHMENT OF APPEAL BOARD

The City of South Hutchinson City Council shall act as the Appeal Board and shall hear and decide appeals and requests for variances from the floodplain management requirements of this ordinance.

SECTION B. RESPONSIBILITY OF APPEAL BOARD

Where an application for a floodplain development permit is denied by the Floodplain Administrator, the applicant may apply for such floodplain development permit directly to the Appeal Board, as defined in Article 5, Section A.

The Appeal Board shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.

SECTION C. FURTHER APPEALS

Any person aggrieved by the decision of the Appeal Board or any taxpayer may appeal such decision to the District Court as provided in K.S.A. 12-759 and 12-760.

SECTION D. FLOODPLAIN MANAGEMENT VARIANCE CRITERIA

In passing upon such applications for variances, the Appeal Board shall consider all technical data and evaluations, all relevant factors, standards specified in other sections of this ordinance, and the following criteria:

1. Danger to life and property due to flood damage;
2. Danger that materials may be swept onto other lands to the injury of others;
3. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. Importance of the services provided by the proposed facility to the community;
5. Necessity to the facility of a waterfront location, where applicable;
6. Availability of alternative locations, not subject to flood damage, for the proposed use;
7. Compatibility of the proposed use with existing and anticipated development;
8. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. Safety of access to the property in times of flood for ordinary and emergency vehicles;
10. Expected heights, velocity, duration, rate of rise and sediment transport of the flood waters, if applicable, expected at the site; and,
11. Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems; streets; and bridges.

SECTION E. CONDITIONS FOR APPROVING FLOODPLAIN MANAGEMENT VARIANCES

1. Generally, variances may be issued for new construction and substantial-improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood elevation, providing items two (2) through six (6) below have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
2. Variances may be issued for the reconstruction, repair, or restoration of structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination, provide the proposed activity will not preclude the structure's continued historic designation and the variance is the minimum necessary to preserve the historic character and design of the structure.

3. Variances shall not be issued within any designated floodway if any significant increase in flood discharge or base flood elevation would result.
4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
5. Variances shall only be issued upon: (a) showing of good and sufficient cause, (b) determination that failure to grant the variance would result in exceptional hardship to the applicant, and (c) determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
6. A community shall notify the applicant in writing over the signature of a community official that: (a) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (b) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.
7. A community shall maintain a record of all variance actions, including justification for their issuance.
8. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of items 1 through 5 of this section are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

ARTICLE 6 VIOLATIONS

1. The floodplain administrator may make reasonable entry upon any lands and waters in The City of South Hutchinson for the purpose of making an investigation, inspection or survey to verify compliance with these regulations. The floodplain administrator shall provide notice of entry by mail, electronic mail, phone call, or personal delivery to the owner, owner's agent, lessee, or lessee's agent whose lands will be entered. If none of these persons can be found, the floodplain administrator shall affix a copy of the notice to one or more conspicuous places on the property a minimum of five (5) days prior to entry.
2. A structure or other development without a floodplain development permit or other evidence of compliance is presumed to be in violation until such documentation is provided.
3. The floodplain administrator shall provide written notice of a violation of this ordinance to the owner, the owner's agent, lessee, or lessee's agent by personal service or by certified mail, return receipt requested. The written notice shall include instructions and a deadline to request a hearing before the appeals board, and if no hearing is requested, a deadline by which the violation must be corrected.
4. Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with granting of variances)

shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500.00, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues, shall be considered a separate offense. Nothing herein contained shall prevent the City of South Hutchinson or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

5. Notwithstanding any criminal prosecutions or in lieu of any criminal prosecutions, if the owner, occupant or agent in charge of the property has neither alleviated the conditions causing the alleged violation nor requested a hearing within the period specified, the public officer or an authorized assistant shall abate or remove the conditions causing the violation.

6. If the public officer or an authorized assistant abates or removes the nuisance pursuant to this section, notice shall be provided to the owner, the owner's agent, lessee, or lessee's agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred. The notice shall also state that the payment is due within 30 days following receipt of the notice. The cost of providing notice, including any postage, required by this section may also be recovered.

7. The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the city clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and applicable interest has been paid in full. (K.S.A. 12-1617f).

ARTICLE 7 AMENDMENTS

The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties of interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in the Hutchinson and/or South Hutchinson community. At least twenty (20) days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the FEMA Region VII office. The regulations of this ordinance are in compliance with the NFIP regulations.

ARTICLE 8 DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the same meaning they have in common usage and to give this ordinance its most reasonable application.

"**100-year Flood**" *see "base flood."*

"**Accessory Structure**" means the same as "*appurtenant structure.*"

"**Actuarial Rates**" *see "risk premium rates."*

"**Administrator**" means the Federal Insurance Administrator.

"**Agency**" means the Federal Emergency Management Agency (FEMA).

"**Appeal**" means a request for review of the Floodplain Administrator's interpretation of any provision of this ordinance or a request for a variance.

"**Appurtenant Structure**" means a structure that is on the same parcel of property as the principle structure to be insured and the use of which is incidental to the use of the principal structure.

"**Area of Shallow Flooding**" means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"**Area of Special Flood Hazard**" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

"**Base Flood**" means the flood having a one percent chance of being equaled or exceeded in any given year.

"**Base Flood Elevation**" means the elevation of the surface of the water during a one percent annual chance flood event.

"**Basement**" means any area of the structure having its floor subgrade (below ground level) on all sides.

"**Building**" *see "structure."*

"**Chief Engineer**" means the chief engineer of the division of water resources, Kansas Department Of Agriculture.

"**Chief Executive Officer**" or "**Chief Elected Official**" means the official of the community who is charged with the authority to implement and administer laws, ordinances, and regulations for that community.

"Community" means any State or area or political subdivision thereof, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, levees, levee systems, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

"Elevated Building" means for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

"Eligible Community" or "Participating Community" means a community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

"Existing Construction" means for the purposes of determining rates, structures for which the *"start of construction"* commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. *"existing construction"* may also be referred to as *"existing structures."*

"Existing Manufactured Home Park or Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

"Expansion to an Existing Manufactured Home Park or Subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland waters; (2) the unusual and rapid accumulation or runoff of surface waters from any source; and (3) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood, or by some similarly unusual and unforeseeable event which results in flooding as defined above in item (1).

"Flood Boundary and Floodway Map (FBFM)" means an official map of a community on which the Administrator has delineated both special flood hazard areas and the designated regulatory floodway.

"Flood Elevation Determination" means a determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

"Flood Elevation Study" means an examination, evaluation and determination of flood hazards.

"Flood Fringe" means the area outside the floodway encroachment lines, but still subject to inundation by the regulatory flood.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Administrator, where the boundaries of the flood areas having special flood hazards have been designated as (unnumbered or numbered) A zones.

"Flood Hazard Map" means the document adopted by the governing body showing the limits of: (1) the floodplain; (2) the floodway; (3) streets; (4) stream channel; and (5) other geographic features.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

"Flood Insurance Study (FIS)" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

"Floodplain" or "Flood-prone Area" means any land area susceptible to being inundated by water from any source (*see "flooding"*).

"Floodplain Management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

"Floodplain Management Regulations" means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain and grading ordinances) and other applications of police power. The term describes such state or local regulations, in any combination thereof, that provide standards for the purpose of flood damage prevention and reduction.

"Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, or structures and their contents.

"Floodway" or "Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

"Floodway Encroachment Lines" means the lines marking the limits of floodways on Federal, State and local floodplain maps.

"Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. *"Freeboard"* tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as bridge openings and the hydrological effect of urbanization of the watershed.

"Functionally Dependent Use" means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities and facilities that are necessary for the loading and unloading of cargo or passengers, but does not include long-term storage or related manufacturing facilities.

"Highest Adjacent Grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"Historic Structure" means any structure that is (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either (1) by an approved state program as determined by the Secretary of the Interior or (2) directly by the Secretary of the Interior in states without approved programs.

"Lowest Floor" means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building's lowest floor, **provided** that such enclosure is not built so as to render the structure in violation of the applicable floodproofing design requirements of this ordinance.

"Manufactured Home" means a structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term *"manufactured home"* does include mobile homes manufactured prior to 1976 but **does not include a "recreational vehicle."**

"Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Map" means the Flood Hazard Boundary Map (FHBM), Flood Insurance Rate Map (FIRM), or the Flood Boundary and Floodway Map (FBFM) for a community issued by the Federal Emergency Management Agency (FEMA).

"Market Value" or "Fair Market Value" means an estimate of what is fair, economic, just and equitable value under normal local market conditions.

"Mean Sea Level" means, for purposes of the National Flood Insurance Program (NFIP), the National American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are referenced.

"New Construction" means, for the purposes of determining insurance rates, structures for which the *"start of construction"* commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *"new construction"* means structures for which the *"start of construction"* commenced on or after the effective date of the floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

"New Manufactured Home Park or Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lot on which the manufactured homes are to be

affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the community.

"(NFIP)" means the National Flood Insurance Program (NFIP).

"**Numbered A Zone**" means a special flood hazard area where the Flood Insurance Rate Map shows the Base Flood Elevation.

"**One percent annual chance flood**" *see "base flood."*

"**Participating Community**" also known as an "*eligible community*," means a community in which the Administrator has authorized the sale of flood insurance.

"**Permit**" means a signed document from a designated community official authorizing development in a floodplain, including all necessary supporting documentation such as: (1) the site plan; (2) an elevation certificate; and (3) any other necessary or applicable approvals or authorizations from local, state or federal authorities.

"**Person**" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including Federal, State, and local governments and agencies.

"**Principally Above Ground**" means that at least 51 percent of the actual cash value of the structure, less land value, is above ground.

"**Reasonably Safe From Flooding**" means base flood waters will not inundate the land or damage structures to be removed from the SFHA and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

"**Recreational Vehicle**" means a vehicle which is (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projections; (c) designed to be self-propelled or permanently able to be towed by a light-duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"**Remedy A Violation**" means to bring the structure or other development into compliance with Federal, State, or local floodplain management regulations; or, if this is not possible, to reduce the impacts of its noncompliance.

"**Risk Premium Rates**" means those rates established by the Administrator pursuant to individual community studies and investigations, which are undertaken to provide flood insurance in accordance with Section 1307 of the National Flood Disaster Protection Act of 1973 and the accepted actuarial principles. "*Risk premium rates*" include provisions for operating costs and allowances.

"**Special Flood Hazard Area**" *see "area of special flood hazard."*

"**Special Hazard Area**" means an area having special flood hazards and shown on an FHBM, FIRM or FBFM as zones (unnumbered or numbered) A, AO, AE, or AH.

"Start of Construction" includes substantial-improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvements were within 180 days of the permit date. The *actual start* means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, the installation of streets and/or walkways, excavation for a basement, footings, piers, foundations, the erection of temporary forms, nor installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial-improvement, the *actual start of construction* means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"State Coordinating Agency" means the Division of Water Resources, Kansas Department of Agriculture, or other office designated by the governor of the state or by state statute at the request of the Administrator to assist in the implementation of the National Flood Insurance Program (NFIP) in that state.

"Structure" means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. *"Structure"* for insurance purposes, means a walled and roofed building, other than a gas or liquid storage tank that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

"Substantial-Damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial-Improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before *"start of construction"* of the improvement. This term includes structures, which have incurred *"substantial-damage,"* regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a *"historic structure,"* provided that the alteration will not preclude the structure's continued designation as a *"historic structure."*

"Unnumbered A Zone" means a special flood hazard area shown on either a flood hazard boundary map or flood insurance rate map where the base flood elevation is not determined.

"Variance" means a grant of relief by the community from the terms of a floodplain management regulation. Flood insurance requirements remain in place for any varied use or structure and cannot be varied by the community.

"Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this ordinance is presumed to be in violation until such time as that documentation is provided.

"Water Surface Elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplains of riverine areas.

ORDINANCE NO. 21-03

AN ORDINANCE AMENDING ORDINANCE 10-787, SECTION 1, SUBSECTION 1-110(a) OF THE CITY CODE OF THE CITY OF SOUTH HUTCHINSON, KANSAS CHANGING THE TIME OF THE REGULAR MEETINGS FOR THE GOVERNING BODY OF THE CITY.

BE IT ORDAINED THAT ORDINANCE NO. 10-787, WHICH ORDINANCE AMENDED SECTION 1, SUBSECTION 1-110(a) IS HEREBY AMENDED AS FOLLOWS:

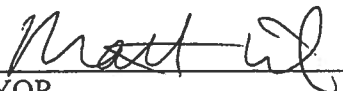
Section 1. That Section 1-110 of the City Code of the City of South Hutchinson, Kansas is hereby amended to read as follows:

1-110. MEETINGS. (a) Regular meetings of the governing body shall be held at 6:00 p.m. on the first and third Monday of each month. In the event the regular meeting day shall be a legal holiday, the governing body shall meet on the next regular working day at the same place and time.

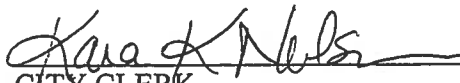
(b) Special meetings may be called by the mayor at any time upon written request of three members of the council. The request shall state the matters to be discussed at such special meeting and no other matters may be considered at such meeting.

Section 3. That this Ordinance shall be in full force and effect from and after its passage and publication once in the official city newspaper.

PASSED AND APPROVED BY THE GOVERNING BODY OF THE CITY OF SOUTH HUTCHINSON, KANSAS THIS 1 day of March, 2021.


MAYOR

ATTEST:


CITY CLERK

RENO COUNTY

This instrument was filed for record on the

26 day of *Apr* A.D. 20 *21*

at *1* o'clock *P* M and duly

recorded in Book *558* on Page *216*

Fee \$ *0* (*3*)

Michelle Updegrave
Registrar of Deeds

ORDINANCE NO. 21-04

AN ORDINANCE VACATING A PORTION OF DES MOINES STREET IN THE CITY OF SOUTH HUTCHINSON, KANSAS.

WHEREAS, the City of South Hutchinson desires to vacate the street right of way below described:

Des Moines Circle from Detroit Drive in the City of South Hutchinson, Kansas reserving, said right of way limits as an easement for existing or proposed public utilities or any other public purpose, and;

WHEREAS, the Petition was presented to the City of South Hutchinson Planning Commission and a public hearing was held on March 8, 2021 at 6:00 p.m., and;

WHEREAS, proper notice of such street right of way vacation was given pursuant to K.S.A. 12-504, and;

WHEREAS, a public hearing was held and there were no objections or appearances objecting to the street vacation, and;

WHEREAS, the governing body has determined the street right of way is not needed by the City, and;

WHEREAS, no private property rights will be injured or endangered by vacating this street, and;

WHEREAS, the public will suffer no loss or inconvenience and in the interest of justice, the petition shall be granted.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SOUTH HUTCHINSON, KANSAS:

Section 1. That the following described street right of way granted to the City of South Hutchinson, Kansas is hereby vacated:

A portion of the right-of-way of Des Moines Circle being vacated by the Haskins Second Replat, a replat of Lots 1, 2, 3, 4, 5, 6 and Des Moines Circle, Block A, Wilbeck Addition, a subdivision of a portion of the Southwest Quarter of Section 25, Township 23 South, Range 6 West of the 6th Principal Meridian, in the City of South Hutchinson, Reno County, Kansas described as follows:

Beginning at the Southwest corner of Lot 7, Block A, Wilbeck Addition to the City of South Hutchinson; thence with a bearing South 80°44'55" East (basis of bearings is

NAD 83 Kansas South Zone) along the South line of said Lot 7 and the extension thereof a distance of 185.25 feet; thence North $08^{\circ}16'28''$ East 33.95 feet to the northerly right-of-way line of Des Moines Circle, now vacated; thence following the arc of a curve to the right having a radius of 60.00 feet along the northerly right-of-way line of Des Moines Circle a distance of 15.05 feet (chord bears South $84^{\circ}07'57''$ East 15.01 feet); thence South $08^{\circ}16'28''$ West 49.88 feet; thence South $80^{\circ}43'42''$ East 54.33 feet to the Easterly right-of-way line of Des Moines Circle; thence South $86^{\circ}27'50''$ East 126.37 feet to the East line of Lot 5, Block A, Wilbeck Addition; thence North $89^{\circ}56'28''$ East 44.14 feet to the Westerly right-of-way line of the K & O Railroad; thence South $00^{\circ}03'32''$ East along said railroad right-of-way line 20.03 feet; thence South $89^{\circ}56'28''$ West 44.05 feet to the East line of said Lot 5; thence North $87^{\circ}16'21''$ West 130.29 feet to the Easterly right-of-way line of Des Moines Circle; thence South $89^{\circ}14'28''$ West 111.62 feet to the Southwesterly right-of-way line of Des Moines Circle; thence following the arc of a curve to the right having a radius of 60.00 feet northerly along said right-of-way line 7.36 feet (chord bears North $18^{\circ}46'52''$ West 7.36 feet) to the Northeast corner of Lot 1, Block A, Wilbeck Addition; thence North $80^{\circ}44'55''$ West a distance of 149.15 feet to the Northwest corner of said Lot 1; thence North $18^{\circ}25'30''$ East a distance of 50.59 feet to the point of beginning.

and;

Section 2. That the City of South Hutchinson, Kansas hereby specifically retains and reserves an easement for all utility purposes or any other municipal purposes over the entire portion of the vacated street right of way.

Section 3. The City Clerk is hereby directed to file a certified copy of this ordinance with the County Clerk and Register of Deeds of Reno County, Kansas.

Section 4. Ownership of the street right of way being vacated shall revert to the adjacent property owners pursuant to state law.

Section 5. This ordinance shall take effect from and after its passage and publication as provided by law.

PASSED BY THE GOVERNING BODY THIS 19th DAY OF April, 2021.



[Handwritten Signature]
Mayor

Attest:

Jamie Arnesen
City Clerk

On April 19, 2021, the City of SOUTH HUTCHINSON, Kansas adopted Ordinance 21-04 an ordinance relating to the vacation of a portion of Des Moines Street at the intersection of Detroit Street. A full copy of this Ordinance can be obtained at City Hall, 2 S Main Street, South Hutchinson, KS. This summary is certified by Stanley R. Juhnke, City Attorney.

Stanley R. Juhnke
Stanley R Juhnke, City Attorney

PRELIMINARY PLAT

HASKINS 2nd REPLAT

A REPLAT OF LOTS 1, 2, 3, 4, 5, 6 AND DES MOINES CIRCLE, BLOCK "A", WILBECK ADDITION, A SUBDIVISION OF A PORTION OF THE SOUTHWEST 1/4 OF SECTION 25, TOWNSHIP 23 SOUTH, RANGE 6 WEST OF THE 6TH PRINCIPAL MERIDIAN, SOUTH HUTCHINSON, RENO COUNTY, KANSAS.

- LEGEND**
- △ Indirect Monument Found
 - Survey Monument Found
 - Iron Pipe
 - Iron Nail
 - Iron Stake
 - Iron Bolt
 - Iron Washer
 - Iron Nut
 - Iron Cap
 - Iron Ring
 - Iron Chain
 - Iron Wire
 - Iron Tape
 - Iron Cord
 - Iron Rope
 - Iron Cable
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 - Iron Pipe
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 - Iron Hose
 - Iron Pipe
 - Iron Nail
 - Iron Stake
 - Iron Bolt
 - Iron Washer
 - Iron Nut
 - Iron Cap
 - Iron Ring
 - Iron Chain
 - Iron Wire
 - Iron Tape
 - Iron Cord
 - Iron Rope
 - Iron Cable
 - Iron Hose



DESCRIPTION:
 A Replat of Lots 1, 2, 3, 4, 5, 6 and Des Moines Circle, Block "A", Wilbeck Addition, a subdivision of a portion of the southwest 1/4 of section 25, township 23 south, range 6 west of the 6th principal meridian, south Hutchinson, Reno County, Kansas.

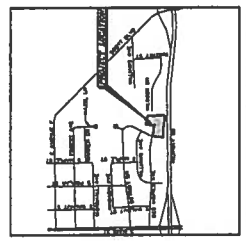
DESCRIPT:
 These were located by respective means. Any mistake not shown on this is no response to Kansas One Call 1-800-562-5477. Ticket #1288777.

UTILITY LOCATIONS SHOWN HEREON ARE BASED ON INFORMATION RECEIVED FROM THE KANSAS ONE CALL (800) 562-5477. ANY UTILITY LOCATIONS NOT SHOWN HEREON ARE NOT GUARANTEED BY THE SURVEYOR. ANY UTILITY LOCATIONS BY CALLING 1-800-562-5477.

FLOOD NOTE:
 This plat is shown in blue. The 100-year flood elevation for the area is 1000.00. The 500-year flood elevation for the area is 1005.00. The 1000-year flood elevation for the area is 1010.00. The 100-year flood elevation for the area is 1000.00. The 500-year flood elevation for the area is 1005.00. The 1000-year flood elevation for the area is 1010.00. The 100-year flood elevation for the area is 1000.00. The 500-year flood elevation for the area is 1005.00. The 1000-year flood elevation for the area is 1010.00.

NOTE:
 City water lines are not shown by One Call Locations. Water lines shown hereon are not guaranteed by the surveyor. Water lines not shown hereon are not guaranteed by the surveyor.

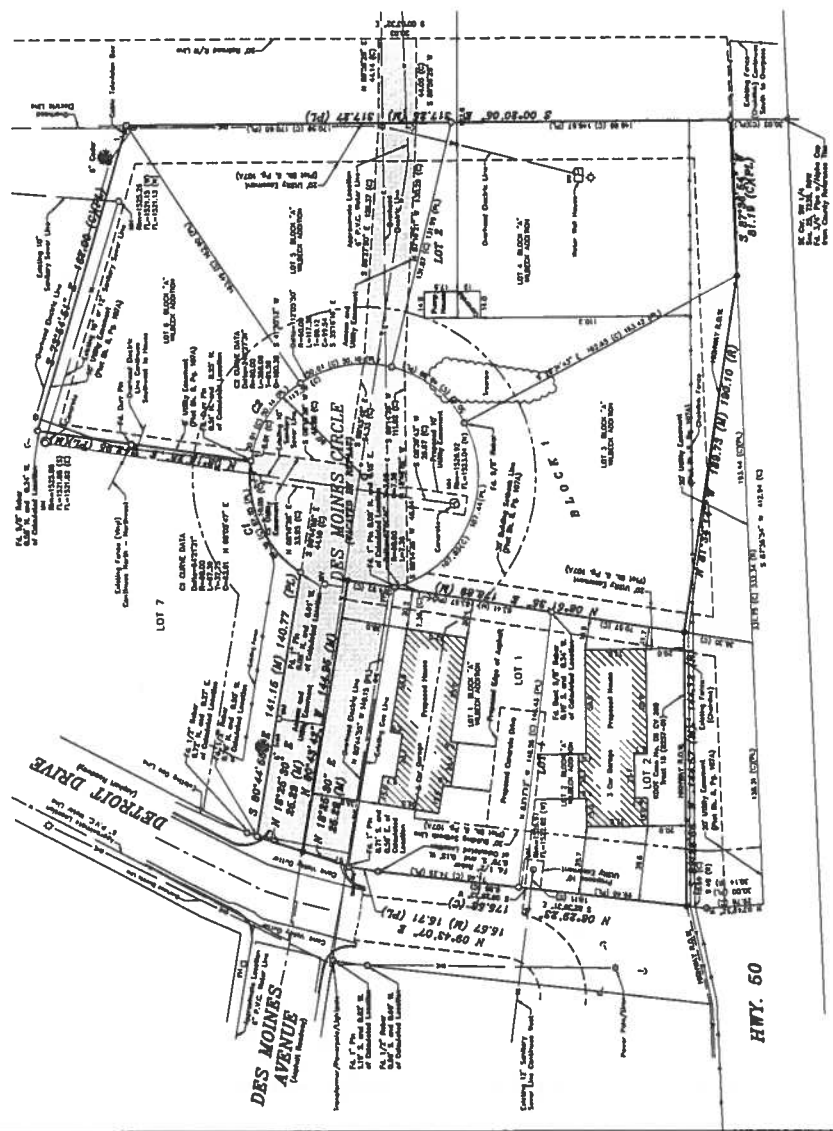
NOTE:
 City water lines are not shown by One Call Locations. Water lines shown hereon are not guaranteed by the surveyor. Water lines not shown hereon are not guaranteed by the surveyor.



SOUTH HUTCHINSON, KANSAS
 VICINITY MAP

OWNER/SUBDIVIDER:
 HASKINS BROTHERS LLC
 1000 W. DES MOINES CIRCLE
 SOUTH HUTCHINSON, KS. 67505
 (820) 314-7800

SURVEYOR:
 DANIEL E. GABBER
 GABBER SURVEYING SERVICE, P.A.
 1000 W. DES MOINES CIRCLE
 SOUTH HUTCHINSON, KS. 67505



PRELIMINARY PLAT
 OF
LOTS 1, 2, 3, 4, 5, 6 AND DES MOINES CIRCLE, BLOCK "A", WILBECK ADDITION, A SUBDIVISION OF A PORTION OF THE SOUTHWEST 1/4 OF SECTION 25, TOWNSHIP 23 SOUTH, RANGE 6 WEST OF THE 6TH PRINCIPAL MERIDIAN, SOUTH HUTCHINSON, KANSAS

Prepared By:
Garber Surveying Service, P.A.
 HUTCHINSON
 1000 W. DES MOINES CIRCLE
 SOUTH HUTCHINSON, KS. 67505
 (820) 314-7800

Drawn By: D.E.G.
 Checked By: D.E.G.
 Date of Field Work: July 1, 2014
 Sheet 1 of 1 Sheets
 G2328-988

ORDINANCE NO. 21-05

AN ORDINANCE AMENDING SECTION 7-302 AND SECTION 7-303 OF THE CODE OF THE CITY OF SOUTH HUTCHINSON, KANSAS REGULATING THE SALE AND DISCHARGE OF FIREWORKS WITHIN THE CITY OF SOUTH HUTCHINSON, KANSAS.

WHEREAS, the governing body of the City has decided to allow and regulate the sale and discharge of fireworks in the City.

NOW THEREFORE:

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SOUTH HUTCHINSON, KANSAS:

SECTION 1. Section 7-302 of the Code of the City of South Hutchinson, Kansas is hereby amended to read as follows:

- (a) DOT Division 1.4G Consumer Fireworks as defined by the Federal Department of Transportation, the State of Kansas and approved by the South Hutchinson Fire Chief are permitted in any year to be discharged between the hours of 8:00 a.m. to 11:00 p.m. from June 30th to July 4th inclusive.
- (b) It is hereby declared unlawful for any person to discharge any fireworks of any kind or nature whatsoever except as provided in this section unless authorized to do so by a resolution of the governing body of the City.
- (c) No person shall discharge fireworks on public property.
- (d) The Fire Chief is authorized to ban the discharge of fireworks due to weather conditions.

SECTION 2. Section 7-303 of the Code of the City of South Hutchinson, Kansas is hereby amended to read as follows:

Section 7-303. DOT Division 1.4G Consumer Fireworks: Sale and Regulation thereof:

1. DOT Division 1.4G Consumer Fireworks as defined by the Federal Department of Transportation, the State of Kansas and approved by the Fire

Chief of the City of South Hutchinson, Kansas may be offered for sale by City permit only in the city limits of South Hutchinson, Kansas. Sales shall

be limited to the dates and times stated on each permit and no permit shall be renewable. Such fireworks shall be limited to those defined. Bottle Rockets are prohibited to be stored, sold, offered for sale, or possessed with the intent to offer for sale. The Fire Chief may also prohibit the sale, storage, discharge, or possession of any firework that in his/her opinion constitutes an undue risk to the safety of the citizens of South Hutchinson.

2. The number of permitted fireworks stands within the City of South Hutchinson will be limited to seven.
3. Applications for permits to sell consumer fireworks will be accepted between April 1st and June 10th of each year. Applications must be submitted to the City Clerk's Office during normal hours.
4. Submitted applications will be reviewed by the Fire Chief within seven business days. Once the site is approved, fees will be paid and a permit issued by the Fire Chief.
 - a. At the time of application, the Fire Chief will provide the applicant with regulations regarding site location requirements including; temporary (tents) and permanent structures, set-backs from other buildings and public ways, storage of fireworks, disposal of waste, number of fire extinguishers, arrangement of displays and exits, illumination of stands, parking, other signage, disposal of damaged fireworks, and security of stands. Referenced publications: NFPA 101 Life Safety Code (2012); NFPA 1124 Code for Mfg., Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles (2006)
5. Approved fireworks may be offered for sale to individuals within the city limits of The City of South Hutchinson, Kansas, with approved permit, on the following dates, to-wit, June 30th to July 4th from 8:00 a.m. to 11:00 p.m., inclusive.
6. It shall be unlawful for any person to store, sell, possess with intent to sell or offer for sale, any pyrotechnic device not permitted by this Ordinance.

7. It shall be unlawful for any person to discharge fireworks in the City of South Hutchinson, Kansas except as provided in Section 7-302 of the Code of the City of South Hutchinson, Kansas.
8. An applicant wishing to sell consumer fireworks in the City of South Hutchinson shall submit the following in order to obtain a permit:
 - a. A completed fireworks stand application.
 - b. Furnish a bond or certificate of general liability insurance in the amount of \$1,000,000.00, with coverage and policy numbers listing the applicant as the insured or as an additional insured and showing the sales location as the insured location.
 - c. Furnish a copy of the State Sales Tax Number Certificate issued in the name of the applicant.
 - d. Sign a statement that the applicant, if granted permission to sell such fireworks, will, at all times, comply with the terms of this ordinance and laws of the State of Kansas relating to the sale of fireworks.
 - e. If the place where fireworks are to be sold is not owned by the applicant, there shall be filed with the application a notarized written statement signed by the owner or owners of the location, stating the owner or owners consent to the sale of fireworks for the days being requested.
 - f. Once the application is approved by the Fire Chief, the applicant will submit to the City Clerk a fee for each fireworks stand and for the dates and times stated on the application. A fireworks sales permit will be issued at that time.
 - g. The Fireworks Stand Application fee shall be set by resolution of the City Council.
9. No person, firm or corporation engaged in the retail sales of fireworks shall store, sell or offer for sale, or display fireworks in any residential subdivision in the City of South Hutchinson, Kansas.

10. Temporary structures approved for selling consumer fireworks will be constructed no sooner than seven business days prior to commencement of sales and must be removed within seven business days at the conclusion of sales each year.
11. All rules and regulations adopted by Kansas Administrative Regulations concerning the storage, sale and handling of fireworks are incorporated by reference (K.A.R 22-6-1 through K.A.R. 22-6-16).

SECTION 3. SEIZURE, PENALTY AND VIOLATIONS.

1. No stocks of fireworks stored, offered for sale, exposed for sale, sold or held in violation of this Section shall be seized from the owner except by an order or on a search warrant of a court of competent jurisdiction. Such order may be enforced by the City Council or its duly authorized deputies or by the Police Chief or his duly authorized deputies. The stocks of fireworks seized hereunder shall be held by the Police Chief. The City Police Chief shall hold such fireworks under seal in a safe place until final disposition of the charges against the owner; thereupon, the Police Chief shall dispose of the fireworks in accordance with the Court's order.
2. Any person, firm or corporation who shall be convicted in a court of competent jurisdiction for violating the provisions of Section 1 or Section 2 of this Ordinance shall be deemed guilty of a Class C Misdemeanor and in accordance with K.S.A. 21-4502 and K.S.A. 21-4503 shall be subject to a definite term of confinement in the county jail which shall be fixed by a court and shall not exceed one (1) month and/or a fine not to exceed \$500.00.

SECTION 4. INVALIDITY IN PART.

If any section, sentence, subdivision, clause or provision of this Ordinance or application thereof to any person, firm, corporation, partnership, or other entity or circumstances is held invalid or unconstitutional in a court of competent jurisdiction, the remainder of the Ordinance and the application of the section, sentence, subdivision, clause or provision to other persons, firms, corporations, partnerships or entities not similarly situated or to other circumstances shall be affected thereby.

SECTION 5. DEFINITIONS.

Unless otherwise clearly indicated by the context as used in this Ordinance the following definitions shall apply:

1. Federal Department of Transportation Division 1.4G Consumer Fireworks shall mean and include any combustible or explosive composition, or any substance or combination of substances, or devices prepared for the purposes of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, and shall include blank cartridges, toy pistols, toy cannons, toy canes, or toy guns in which explosives are used, firecrackers, torpedoes, Roman candles, Daygo bombs, sparklers, or other devices of like construction and devices containing any explosive or flammable compound, or any tablet or other devices containing an explosive substance, except that the term "fireworks" shall not include any safety flares, paper caps containing not in excess of an average of twenty-five hundredths of a grain of explosive content per cap, any toy pistols, toy canes, toy guns or other devices for use of such caps, the sale and use of

which shall be permitted at all times.

2. Bottle Rocket shall mean any pyrotechnic device which is mounted on a stick or wire and projects into the air when ignited, with or without reports, and includes any devices with the same configuration, with or without reports, which may be classified as a pipe or trough rocket. "Bottle Rocket" does not include helicopter-type fireworks.
3. Sale shall mean all sales of fireworks, within South Hutchinson, Kansas to an individual, firm, partnership, corporation, or association.
4. The term Fireworks Stand shall mean and include any location where fireworks are offered for sale such as, but not limited to, permanent or portable stands, tents trailers, stores, etc.


SECTION 6. Any ordinances or parts of ordinances of the City of South Hutchinson, KS regulating the sale and discharge of Fireworks in the City of South Hutchinson in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 7. This ordinance shall be in full force from and after its passage and summary publication once in the official city newspaper.

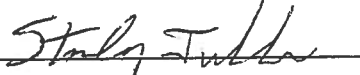
PASSED AND APPROVED BY THE GOVERNING BODY OF THE CITY OF SOUTH HUTCHINSON, KANSAS THIS 5th DAY OF APRIL, 2021.


Tyler Graves, Council President

ATTEST:


Jamie Aronson, Interim City Clerk

On April 5, 2021, the City of SOUTH HUTCHINSON, Kansas adopted Ordinance 21-05 an ordinance relating to the setting application fees for fireworks stands. Application fees will be set by resolution of the City Council. A complete copy of this ordinance is available at www.southhutch.com or at City Hall, 2 South Main. This summary is certified by Stanley R. Juhnke, City Attorney.


Stanley R. Juhnke, City Attorney.

April 5, 2021

ORDINANCE NO. 21-06

AN ORDINANCE RELATING TO THE ESTABLISHMENT AND IMPLEMENTATION OF AN INSURANCE PROCEEDS FUND PURSUANT TO K.S.A 40-3901 AND REPEALING EXISTING ORDINANCES REPEALING CHAPTER VIII, ARTICLE 7 MUNICIPAL CODE OF THE CITY OF SOUTH HUTCHINSON, KANSAS IN CONFLICT HEREWITH.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SOUTH HUTCHINSON KANSAS:

Section 1. SCOPE AND APPLICATION. The city is hereby authorized to use the procedures established by K.S.A. 40-3901 et seq., whereby no insurance company shall pay a claim of a named insured for loss or damage to any building or other structure located within the city, where the amount recoverable for the loss or damage to the building or other structure under all policies is in excess of 75 percent of the face value of the policy covering such building or other insured structure, unless there is compliance with the procedures set out in this ordinance.

Section 2. LIEN CREATED. The governing body of the city hereby creates a lien in favor of the city on the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure located within the city, where the amount recoverable for all the loss or damage to the building or other structure under all policies is in excess of 75 percent of the face value of the policy(s) covering such building or other insured structure. The lien arises upon any unpaid tax, special ad valorem levy, or any other charge imposed upon real property by or on behalf of the city which is an encumbrance on real property, whether or not evidenced by written instrument, or such tax, levy, assessment, expense or other charge that has remained undischarged for at least one year prior to the filing of a proof of loss.

Section 3. SAME; ENCUMBRANCES. Prior to final settlement on any claim covered by Section 2, the insurer or insurers shall contact the county treasurer, Reno County, Kansas, to determine whether any such encumbrances are presently in existence. If the same are found to exist, the insurer or insurers shall execute and transmit in an amount equal to that owing under the encumbrances a draft payable to the county treasurer, Reno County, Kansas.

Section 4. SAME; PRO RATA BASIS. Such transfer of proceeds shall be on a pro rata basis by all insurance companies insuring the building or other structure.

Section 5. PROCEDURE.

(a) When final settlement on a covered claim has been agreed to or arrived at between the named insured or insureds and the company or companies, and the final settlement exceeds 75 percent of the face value of the policy covering any building or other insured structure, and when all amounts due the holder of a first real estate mortgage against the building or other structure, pursuant to the terms of the policy and endorsements thereto, shall have been paid, the insurance company or companies shall execute a draft payable to the city treasurer in an amount equal to the sum of 15

percent of the covered claim payment, unless the chief building inspector of the city has issued a certificate to the insurance company or companies that the insured has removed the damaged building or other structure, as well as all associated debris, or repaired, rebuilt, or otherwise made the premises safe and secure.

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

(c) Upon the transfer of the funds as required by subsection (a) of this ordinance, the insurance company shall provide the city with the name and address of the named insured or insureds, the total insurance coverage applicable to said building or other structure, and the amount of the final settlement agreed to or arrived at between the insurance company or companies and the insured or insureds, whereupon the chief

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building inspector shall contact the named insured or insureds by certified mail, return receipt requested, notifying them that said insurance proceeds have been received by the city and apprise them of the procedures to be followed under this ordinance.

Section 6. FUND CREATED; DEPOSIT OF MONEYS. The city treasurer is hereby authorized and shall create a fund to be known as the "Insurance Proceeds Fund." All moneys received by the city treasurer as provided for by this ordinance shall be placed in said fund and deposited in an interest-bearing account.

Section 7. BUILDING INSPECTOR; INVESTIGATION, REMOVAL OF STRUCTURE.

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

(b) Within 30 days of the receipt of said moneys, the chief building inspector shall determine, after prior investigation, whether the city shall instigate proceedings under the provisions of K.S.A. 12-1750 et seq., as amended.

(c) Prior to the expiration of the 30 days established by subsection (b) of this ordinance, the chief building inspector shall notify the city treasurer whether he or she intends to initiate proceedings under K.S.A. 121750 et seq. as amended.

(d) If the chief building inspector has determined that proceedings under K.S.A. 12-1750 et seq., as amended shall be initiated, he or she will do so immediately but no later than 45 days after receipt of the moneys by the city treasurer.

(e) Upon notification to the city treasurer by the chief building inspector that no proceedings shall be initiated under K.S.A. 12-1750 et seq., as amended, the city treasurer shall return all such moneys received, plus accrued interest, to the insured or insureds as identified in the communication from the insurance company or companies. Such return shall be accomplished within 45 days of the receipt of the moneys from the insurance company or companies.

Section 8. REMOVAL OF STRUCTURE; EXCESS MONEYS. If the chief building inspector has proceeded under the provisions of K.S.A. 12-1750 et seg as amended, all moneys in excess of that which is ultimately necessary to comply with the provisions for the removal of the building or structure, less salvage value, if any, shall be paid to the insured.

Section 9. SAME; DISPOSITION OF FUNDS. If the chief building inspector, with regard to a building or other structure damaged, determines that it is necessary to act under K.S.A. 12-1756, any proceeds received by the city treasurer under the authority of Section 5(a) relating to that building or other structure shall be used to reimburse the city for any expenses incurred by the city in proceeding under K.S.A. 12-1756. Upon reimbursement from the insurance proceeds, the chief building inspector shall immediately effect the release of the lien resulting therefrom. Should the expenses incurred by the city exceed the insurance proceeds paid over to the city treasurer under Section S(a), the chief building inspector shall publish a new lien as authorized by K.S.A. 12-1756, in an amount equal to such excess expenses incurred.

Section 10. EFFECT UPON INSURANCE POLICIES. This ordinance shall not make the city a party to any insurance contract, nor is the insurer liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy.

Section 11. INSURERS; LIABILITY. Insurers complying with this ordinance or attempting in good faith to comply with this ordinance shall be immune from civil and criminal liability and such action shall not be deemed in violation of K.S.A. 40-2404 and any amendments thereto, including withholding payment of any insurance proceeds pursuant to this ordinance, or releasing or disclosing any information pursuant to this ordinance.

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Section 12. REPEAL. Chapter VII, Article 7 of the Municipal Code of the City of South Hutchinson is hereby repealed.

Section 13. EFFECTIVE DATE. This ordinance shall be in frill force and effect from and after adoption and publication in the official civ newspaper.

Passed by the Governing Body of the City of SOUTH HUTCHINSON, Kansas, this 5th day of April, 2021.


Tyler Graves, Council President


Jamie Aronson, Interim City Clerk

April 5, 2021

ORDINANCE 21-08

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOUTH HUTCHINSON CREATING THE AMERICAN RESCUE PLAN FUND

WHEREAS, the congress of the United States has authorized the creation of the American Rescue Plan Act in response to the impacts of the COVID 19 pandemic; and,

WHEREAS, funds will be shared with the various local and state governments; and,

WHEREAS, funds will be distributed to the City of South Hutchinson; and,

WHEREAS, the State of Kansas has recommended the creation of such fund for the receipt, expense and auditing of monies from such funds.

NOW, THEREFORE BE IT ORDAINED:

Section 1. The City of South Hutchinson shall create a fund called the American Rescue Plan Fund

Section 2. That this ordinance shall be in full force and effective upon publication in the official city newspaper.

PASSED THIS 7th DAY OF June, 2021


MATT NISLY, MAYOR

ATTEST:


JAMIE ARONSON, INTERIM CITY CLERK

On June 7, 2021, the City of South Hutchinson, Kansas adopted Ordinance 21-08 creating the American Rescue Plan Fund to receive and spend funds allocated to the City of South Hutchinson. A complete copy of this ordinance is available at <http://www.southhutch.com> or at City Hall, 2 South Main Street, South Hutchinson, KS. This summary is certified by Stanley R Juhnke, City Attorney.


Stanley R. Juhnke, South Hutchinson City Attorney

ORDINANCE 21-09

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOUTH HUTCHINSON AMENDING SECTION 8-504 OF THE MUNICIPAL CODE OF THE CITY OF SOUTH HUTCHINSON, KANSAS SETTING THE COSTS FOR REMOVING WEED AND GRASS NUISANCES ON PRIVATE PROPERTY.

WHEREAS, It is the responsibility of property owners to keep and maintain their property in order.; and,

WHEREAS, the City sets the cost of abating the nuisances on properties where the owner lets weeds and grass grow beyond acceptable limits.

NOW, THEREFORE BE IT ORDAINED:

Section 1. Section 8-504 of the Municipal Code of the City of South Hutchinson shall read:

8-504 ABATEMENT; ASSESSMENT OF COSTS.

(a) Upon the expiration of 10 days after receipt of the notice required by section 8-503, and if the owner, occupant or agent in charge of the premises shall neglect or fail to comply with the requirements of section 8-501, the public officer or an authorized assistant shall cause to be cut, destroyed and/or removed all such weeds and abate the nuisance created thereby at any time during the current calendar year.

(b) The public officer or an authorized assistant shall give notice to the owner, occupant or agent in charge of the premises by certified mail of the costs of abatement of the nuisance. The notice shall state that payment of the costs is due and payable within 30 days following receipt of the notice.

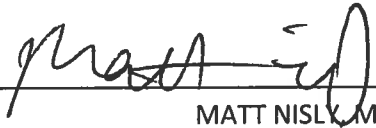
(c) Upon failure of the property owner or occupant to comply with the notice of violative and any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violative and cut and destroy the weeds growing thereon. The costs of such removal shall be paid by the owner or agent responsible for the property. There shall be a minimum hourly fee of \$100.00 per hour for a minimum of one hour and a \$250.00 administrative fee for each time the weeds and grass are cut or mowed by the City or its contractor. Upon failure of the property owner to timely pay said amounts, the same may be collected by whatever legal means are available to the City including certifying the amount to the County Clerk and having the bill placed on the tax roll under real estate taxes for the subject property.

(c) If the costs of removal or abatement remain unpaid after 30 days following receipt of notice, a record of the costs of cutting and destruction and/or removal shall be certified to the city clerk who shall cause such costs to be assessed against the particular lot or piece of land on which such weeds were so removed, and against such lots or pieces of land in front of or abutting on such street or alley on which such weeds were so removed. The city clerk shall certify the assessment to the county clerk at the time other special assessments are certified for spreading on the tax rolls of the county.

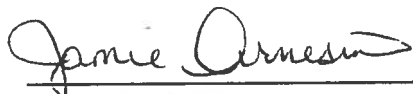
Section 2.

Section 3. That this ordinance shall be in full force and effective upon publication in the official city newspaper.

PASSED THIS 7th DAY OF June, 2021


MATT NISLY, MAYOR

ATTEST:


JAMIE ARONSON, INTERIM CITY CLERK

On June 7, 2021, the City of South Hutchinson, Kansas adopted Ordinance 21-09 setting the cost of abating weed and grass nuisances to be \$100.00 per hour and with a \$250.00 administrative fee. A complete copy of this ordinance is available at <http://www.southhutch.com> or at City Hall, 2 South Main Street, South Hutchinson, KS. This summary is certified by Stanley R Juhnke, City Attorney.


Stanley R. Juhnke, South Hutchinson City Attorney

ORDINANCE NO. 21-10

AN ORDINANCE OF THE CITY OF SOUTH HUTCHINSON, KANSAS, PROVIDING FOR THE ABATEMENT OF NUISANCES AND REPEALING ALL ORDINANCES IN CONFLICT HEREWITH.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SOUTH HUTCHINSON, KANSAS:

CHAPTER VIII. HEALTH AND WELFARE

Article 2. Health Nuisance

Article 3. Junked Vehicles on Private Property

ARTICLE 2. HEALTH NUISANCES

8-201. NUISANCES; UNLAWFUL; DEFINED. It shall be unlawful for any person to maintain or permit any nuisance within the city as defined, without limitation, as follows:

(a) Filth, excrement, lumber, rocks, dirt, cans, paper, trash, metal or any other offensive or disagreeable thing or substance thrown or left or deposited upon any street, avenue, alley, sidewalk, park, public or private enclosure or lot whether vacant or occupied;

(b) All dead animals not removed within 24 hours after death;

(c) Any place or structure or substance which emits or causes any offensive, disagreeable or nauseous odors;

(d) All stagnant ponds or pools of water;

(e) All grass or weeds or other unsightly vegetation not usually cultivated or grown for domestic use or to be marketed or for ornamental purposes;

(f) Abandoned iceboxes or refrigerators kept on the premises under the control of any person, or deposited on the sanitary landfill, or any icebox or refrigerator not in actual use unless the door, opening or lid thereof is unhinged, or unfastened and removed therefrom;

(g) All articles or things whatsoever caused, kept, maintained or permitted by any person to the injury, annoyance or inconvenience of the public or of any neighborhood;

(h) Any fence, structure, thing or substance placed upon or being upon any street, sidewalk, alley or public ground so as to obstruct the same, except as permitted by the laws of the city.

(K.S.A. 21-4106; 4107; Code 1987)

8-202 PUBLIC OFFICER. The city administrator or his or her designee is hereby designated to be the public officer charged with the administration and enforcement of this article.

- 8-203. COMPLAINTS; INQUIRY AND INSPECTION. Upon observing conditions which appear to constitute a nuisance, the public officer may make an inquiry and inspection. The public officer shall make inquiry and inspection of premises upon receiving a complaint or complaints stating that a nuisance exists and describing the same and where located or is informed that a nuisance may exist. Upon making any inquiry and inspection the public officer shall make a written report of findings.
- 8-204. RIGHT OF ENTRY. The public officer has the right of access and entry upon private property at any reasonable time for the purpose of making inquiry and inspection to determine if a nuisance exists. (Code 2002)
- 8-205. NOTICE OF VIOLATION. Any person, corporation, partnership or association found by the public officer to be in violation of Section 8-201 shall be served a notice of such violation. The notice shall be served by first class mail and may be personally served or posted by the public officer, his or her designee, or a law enforcement officer. (Ord. 95-608, Sec.1, Code 2002)
- 8-206. SAME; CONTENTS. The notice shall state the condition(s) which is (are) in violation of Section 8-201. The notice shall also inform the person, corporation, partnership or association that:
- (a) He, she or they shall have 10 days from the date of serving the notice to abate the condition(s) in violation of Section 8-201; or
 - (b) He, she or they have 10 days from the date of serving the notice to request a hearing before the governing body of the matter as provided by Section 8-209;
 - (c) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by Section 8-207 and/or abatement of the condition(s) by the city as provided by Section 8-208.
- (Code 1987)
- 8-207. FAILURE TO COMPLY; PENALTY. Should the person, corporation, partnership or association fail to comply with the notice to abate the nuisance the public officer may file a complaint in the municipal court of the city against such person, corporation, partnership or association and upon conviction of any violation of provisions of Section 8-201 be fined a minimum of \$100.00 or be imprisoned up to 30 days or be both fined and imprisoned. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense.
- 8-208. ABATEMENT. In addition to, or as an alternative to prosecution as provided in Section 8-207, the public officer may seek to remedy violations of this section in the following manner. If a person to whom a notice has been sent pursuant to Section 8-205 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in Section 8-206, the public officer may present a resolution to the governing body for adoption authorizing the public officer or other agents of the city to abate the conditions causing the violation at the end of 10 days after passage of the resolution. The resolution shall further provide that the

costs incurred by the city shall be charged against the lot or parcel of ground on which the nuisance was located as provided in Section 8-210. A copy of the resolution shall be served upon the person in violation in one of the following ways:

- (a) Personal service upon the person in violation;
- (b) Service by certified mail, return receipt requested; or
- (c) In the event the whereabouts of such person are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the public 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 consecutive weeks in the official city newspaper and by posting a copy of the resolution on the premises where such condition exists.
(Code 2002)

8-209. HEARING. If a hearing is requested within the 10 day period as provided in Section 8-206, such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the public officer before the governing body. The hearing shall be held by the governing body as soon as possible after the filing of the request therefore, and the person shall be advised by the city of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the governing body shall record its determination of the matter by means of adopting a resolution and serving the resolution upon the person in the matter provided in Section 8-208. (Code 1987)

8-210. COSTS ASSESSED. If the city abates the nuisance pursuant to Section 8-207, the cost of abatement shall be charged against the lot or parcel of ground on which the nuisance was located. The city clerk shall, at the time of certifying other taxes to the county clerk, certify the costs as provided in this section. The county clerk shall extend the same on the tax roll and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid.
(Code 1987)

8-211. EXCEPTION. This article shall not apply to property licensed junk yard or salvage yard which is in full compliance with all of the laws of the city governing the same. (Ord. 78-367)

ARTICLE 3. JUNKED VEHICLES ON PRIVATE PROPERTY

8-301. FINDINGS OF GOVERNING BODY. This governing body finds that junked, wrecked, dismantled, inoperative or abandoned vehicles and trailers affect the health, safety and general welfare of citizens of the city because they:

- (a) Serve as a breeding ground for flies, mosquitoes, rats and other insects and rodents;
 - (b) Are a danger to persons, particularly children, because of broken glass, sharp metal protrusions, insecure mounting on blocks, jacks or other supports;
 - (c) Are a ready source of fire and explosion;
 - (d) Encourage pilfering and theft;
 - (e) Constitute a blighting influence upon the area in which they are located;
 - (f) Constitute a fire hazard because they frequently block access for fire equipment to adjacent buildings and structures.
- (Ord. 95-608, Sec. 1)

8-302. DEFINITIONS. As used in this article, unless the context clearly indicates otherwise:

- (a) Inoperable means a condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned or unable to perform the function or purpose for which it was originally constructed.
 - (b) Trailer means an unpowered vehicle towed behind another vehicle and used to transport things.
 - (c) Vehicle means, without limitation, any automobile, truck, tractor or motorcycle which as originally built contained an engine, regardless of whether it contains an engine at any other time.
- (Ord. 95-608, Sec. 1)

8-303. NUISANCES UNLAWFUL; DEFINED; EXCEPTIONS. It shall be unlawful for any person to maintain or permit any motor vehicle or trailer nuisance within the city.

(a) A motor vehicle nuisance is any motor vehicle which is not currently registered or tagged pursuant to K.S.A.8-126 to 8-149 inclusive, as amended; or parked in violation of city ordinance; or incapable of moving under its own power; or in a junked, wrecked or inoperable condition. Any one of the following conditions shall raise the presumption that a vehicle is junked, wrecked or inoperable;

- (1) Absence of a current registration plate upon the vehicle;
- (2) Placement of the vehicle or parts thereof upon jacks, blocks or other supports;
- (3) Absence of one or more parts of the vehicle necessary for the lawful operation of the vehicle upon street or highway.

(b) a trailer nuisance is any trailer which is not currently registered or tagged pursuant to K.S.A. 8-1479, as amended; or parked in violation of city ordinance; or incapable of being towed safely by another vehicle, or in a junked wrecked or inoperable condition. Any one of the conditions listed in 8-303(a) shall raise the presumption that the trailer is junked, wrecked or inoperable.

(c) The provisions of this section shall not apply to: (1) any motor vehicle which is enclosed in a garage or other building; (2) to the parking or storage of a vehicle

inoperable for a period of 30 consecutive days or less; or (3) any person who places such vehicles behind screening of sufficient size, strength and density to screen such vehicles from the view of the public and to prohibit ready access to stored vehicles by children. However, nothing in this subsection shall be construed to authorize the maintenance of a public nuisance.

- 8-304. PUBLIC OFFICER. The city administrator or his or her designee is hereby designated to be the public officer charged with the administration and enforcement of this article.
- 8-305. COMPLAINTS; INQUIRY AND INSPECTION. Upon observing conditions which appear to constitute a nuisance, the public officer may make an inquiry and inspection. The public officer shall make inquiry and inspection of premises upon receiving a complaint or complaints stating that a nuisance exists and describing the same and where located or is informed that a nuisance may exist. Upon making any inquiry and inspection the public officer shall make a written report of findings.
- 8-306. RIGHT OF ENTRY. It shall be a violation of this article to deny the public officer the right of access and entry upon private property at any reasonable time for purpose of making inquiry and inspection to determine if a nuisance exists.
- 8-307. NOTICE. Any person, corporation, partnership or association found by the public officer to be in violation of Section 8-303 shall be served a notice of such violation. The notice shall be served by first class mail and may be personally served or posted by the public officer, his or her designee, or a law enforcement officer.
- 8-308. SAME; CONTENTS. The notice shall state the condition(s) which is (are) in violation of Section 8-303. This notice shall also inform the person, corporation, partnership or association that:
- (a) He, she or they shall have 10 days from the date of serving the notice to abate the condition(s) in violation of 8-303; or
 - (b) Failure to abate the condition(s) within 10 days from the date of servicing the notice to abate the condition(s) may result in prosecution as provided by Section 8-309 and/or abatement of the condition(s) by the city as provided by Section 8-310. 1)
- 8-309. FAILURE TO COMPLY; PENALTY. Should the person, corporation, partnership or association fail to comply with the notice to abate the nuisance the public officer may file a complaint in the municipal court of the city against such person, corporation, partnership or association and upon conviction of any violation of provisions of Section 8-303 be fined a minimum of \$100.00 or be imprisoned up to 30 days or be both fined and imprisoned. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense.

8-310. ABATEMENT; HEARING. In addition to, or as an alternative to prosecution as provided in Section 8-309, the public officer may seek to remedy violations of this article in the following manner. If a person to whom a notice has been sent pursuant to Section 8-307 has not alleviated the condition(s) causing the alleged violation, the public officer may present a resolution to the governing body for adoption authorizing the public officer or other agents of the city to abate the condition(s) causing the violation. The resolution shall further provide that the costs incurred by the city shall be charged against the lot or parcel of ground on which the nuisance was located as provided in Section 8-312. Before consideration of the resolution by the governing body, a copy of the resolution shall be served upon the person in violation in one of the following ways:

- (a) Personal service upon the person in violation;
- (b) Service by certified mail, return receipt requested; or
- (c) In the event the whereabouts of such person are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the public 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 consecutive weeks in the official city newspaper and by posting a copy of the resolution on the premises where such condition exists.

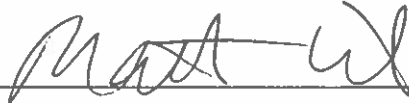
The person served as stated herein may request a hearing before the governing body to show cause why the resolution should not be passed and the violation should not be abated. Such request for hearing shall be made in writing to the governing body within 10 days from service of the resolution to be considered by the governing body. Failure to make a timely request for hearing shall constitute a waiver of the person's right to contest the resolution and/or the abatement proceedings by the governing body. The hearing shall be held by the governing body as soon as possible after the filing of the request therefore, and the person shall be advised by the city of the time and place of the hearing at least five days in advance thereof. At any such hearing the person may be represented by council, and the person and the city may introduce such witnesses and evidence as if deemed necessary and proper by the governing body. The hearing need not be conducted in accordance with the formal rules of evidence. Upon conclusion of the hearing, the governing body shall record its determination of the matter by means of adopting the proposed resolution or dismissing the matter.

8-311. DISPOSITION OF VEHICLE. Disposition of any motor vehicle removed and abated from private property pursuant to this article shall be provided by K.S.A. 1994 Supp. 8-1102, as amended.

8-312. COSTS ASSESSED. If the city abates the nuisance pursuant to Section 8-310, the cost of abatement shall be charged against the lot or parcel of ground on which the nuisance was located. The city clerk shall, at the time of certifying other taxes to the county clerk, certify the costs as provided in this section. The county clerk shall extend the same on the tax roll and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid.

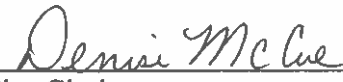
Effective Date. This ordinance shall take effect and be in force from and after its publication in the official city newspaper.

APPROVED BY THE MAYOR AND PASSED BY THE CITY COUNCIL THIS 19th day of July, 2021.



Mayor

Attest:



City Clerk



**MODEL ORDINANCE INCORPORATING
THE STANDARD TRAFFIC ORDINANCE BY REFERENCE**

ORDINANCE NO. 21-11

AN ORDINANCE REGULATING TRAFFIC WITHIN THE CORPORATE LIMITS OF THE CITY OF SOUTH HUTCHINSON, KANSAS; INCORPORATING BY REFERENCE THE STANDARD TRAFFIC ORDINANCE FOR KANSAS CITIES, 48th EDITION, *WITH CERTAIN OMISSIONS, CHANGES AND ADDITIONS; PRESCRIBING ADDITIONAL REGULATIONS; PROVIDING CERTAIN PENALTIES AND REPEALING ORDINANCES NUMBERED 19-913.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SOUTH HUTCHINSON, KANSAS:

Section 1. INCORPORATING STANDARD TRAFFIC ORDINANCE. There is hereby incorporated by reference for the purpose of regulating traffic within the corporate limits of the City of South Hutchinson, Kansas, that certain standard traffic ordinance known as the Standard Traffic Ordinance for Kansas Cities, 48th Edition, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas. One copy of said Standard Traffic Ordinance shall be marked or stamped "Official Copy as Adopted by Ordinance No. 21-11," and to which shall be attached a copy of this ordinance and filed with the city clerk to be open to inspection and available to the public at all reasonable hours. The police department, municipal judge and all administrative departments of the city charged with enforcement of the ordinance shall be supplied, at the cost of the city such number of official copies of such Standard Traffic Ordinance similarly marked, as may be deemed expedient.

Section 2. TRAFFIC INFRACTIONS AND TRAFFIC OFFENSES.

(a) An ordinance traffic infraction is a violation of any section of this ordinance that prescribes or requires the same behavior as that prescribed or required by a statutory provision that is classified as a traffic infraction in K.S.A. 8-2118.

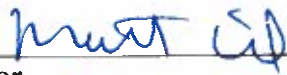
(b) All traffic violations that are included within this ordinance, and are not ordinance traffic infractions, as defined in subsection (a) of this section, shall be considered traffic offenses.

Section 3. PENALTY FOR SCHEDULED FINES. The fine for violation of an ordinance traffic infraction or any other traffic offense in which the municipal judge establishes a fine in a fine schedule shall not be less than \$10.00 nor more than \$100.00, except for speeding, which shall not be less than \$15.00 nor more than \$500.00. A person tried and convicted for violation of an ordinance traffic infraction or other traffic offense in which a fine has not been established in a schedule or fines shall pay a fine fixed by the court not to exceed \$500.00.

Section 4. REPEAL. Ordinance numbered 19-913 is repealed.

Section 5. EFFECTIVE DATE. This ordinance shall take effect and be in force upon its passing.

PASSED BY THE GOVERNING BODY THIS 20th day of September, 2021.



Mayor

Attest:



City Clerk

**MODEL ORDINANCE INCORPORATING
THE UNIFORM PUBLIC OFFENSE CODE BY REFERENCE**

ORDINANCE NO. 21-12

AN ORDINANCE REGULATING PUBLIC OFFENSES WITHIN THE CORPORATE LIMITS OF THE CITY OF SOUTH HUTCHINSON, KANSAS; INCORPORATING BY REFERENCE THE UNIFORM PUBLIC OFFENSE CODE FOR KANSAS CITIES, 37th EDITION, PROVIDING CERTAIN PENALTIES AND REPEALING ORDINANCES NUMBERED 19-914.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SOUTH HUTCHINSON, KANSAS:

Section 1. INCORPORATING UNIFORM PUBLIC OFFENSE CODE. There is hereby incorporated by reference for the purpose of regulating public offenses within the corporate limits of the City of South Hutchinson, Kansas, that certain code known as the Uniform Public Offense Code, 37th Edition, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas. One official copy of said Uniform Public Offense Code shall be marked or stamped "Official Copy as Adopted by Ordinance No. 21-12," and to which shall be attached a copy of this Ordinance, and filed with the city clerk to be open to inspection and available to the public at all reasonable hours.

Section 2. REPEAL. Ordinance numbered 19-914 is repealed.

Section 3. EFFECTIVE DATE. This ordinance shall take effect and be in force upon its passing.

PASSED BY THE GOVERNING BODY THIS 20th day of September, 2021.



Mayor

Attest:



City Clerk