

CITY OF CHERRYVALE

MEETING OF THE CITY COUNCIL REGULAR MEETING DECEMBER 6, 2010 7:00 p.m.

Working for a better tomorrow... today.

ORDER OF BUSINESS

CALL MEETING TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE

ROLL CALL

PUBLIC HEARING

A. 2010 CDBG PROJECT CLOSE OUT

Presented by Becky Voorhies, Grant Administrator, SEKRPC

RECOMMENDED ACTION: Approve close out of project and authorize Mayor to sign required paperwork.

TABLED ITEMS

A. ORDINANCE NO. 10-4599: SETTING WATER RATES

Presented by Greg McDanel, City Administrator

RECOMMENDED ACTION: Adopt Ordinance No. 10-4599 with selected rates.

B. ORDINANCE NO. 10-4600: SETTING WATER RATES

Presented by Greg McDanel, City Administrator

RECOMMENDED ACTION: Adopt Ordinance No. 10-4600 with selected rates.

NEW BUSINESS

A. CONSENT AGENDA

Presented by John Wright, Mayor

RECOMMENDED ACTION: Approve the consent agenda.

1. Regular Meeting Minutes – November 15, 2010
2. Special Meeting Minutes - November 23, 2010
3. Appropriations Ord. No. 10-1124 \$116,063.66
 - a. Approval of Purchases over \$5,000:
 - i. Allied Waste Services \$12,536.96
 - ii. Preferred Health Systems \$10,049.83
 - iii. Terracon \$10,310.38
 - iv. Card Services (P-Card Statement) \$10,595.58

- | | |
|---|-------------|
| 4. Ewing Construction
KHRC Home Grant Rehab at 315 E. 5 th Street | \$23,100.00 |
| 5. Public Wholesale Water Supply District # 4 | \$26,012.00 |
| 6. Terracon, EPA Brownfields Assessments
Hazardous Substances Grant – \$8,028.50
Petroleum Grant - \$7,103.24 | \$15,131.74 |
| 7. Change December Water Shut-Off Date from 12/22/10 to 12/27/10 | |
| 8. Authorize Depository and Banking Services Agreement with Community
National Bank | |

INFORMATIONAL ITEMS

1. Economic Development 101, December 9, 2010 at Memorial Hall, 6:00 – 8:30 p.m.
2. 2011 KAN-STEP Grant Update
3. Smelter Site Update
4. Emergency 911 Calls
5. RBEG Loan Fund

ADJOURNMENT TO WORK SESSION

CITY OF CHERRYVALE

MEETING OF THE CITY COUNCIL WORK SHOP AGENDA DECEMBER 6, 2010 7:00 PM

Working for a better tomorrow... today.

1. Chapter IV Code Revision
2. Police Department K-9 Discussion

Section 12: Grant Close-Out

GRANT CLOSE-OUT TRANSMITTAL FORM

Grantee's Name and Address: <u>City of Cherryvale</u> <u>123 West Main</u> <u>Cherryvale, KS 67335</u>	Grant Agreement No.: <u>10-PF-013</u> Commencement Date: <u>2/1/10</u> Completion Date: <u>10/1/10</u>
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Please complete this form and items 1 through 7 for all grant types (8 is for applicable grants containing construction), including the Performance Hearing Affidavit to conclude this grant project. If this is a business finance or infrastructure grant, complete 10 through 14 in addition.

1. Grantee's/Contractor's Release Form *
2. Final Independent Auditor's Report
3. Final Quarterly Progress Report (Section 2)
4. Certificate of Completion (2 originals) *
5. Property Management Report
6. Explanation of Refund Check (if applicable)
7. Civil Rights – Demographics/Beneficiary Report
8. Notice of Completion/Final Inspection – Final Wage Compliance Report *
9. Performance Hearing Affidavit
10. Economic Development Report
11. Copy of Final Payroll and Employee Certification Report (Economic Development Grantee Handbook)
12. Legal Review and Closeout Report
13. Program Income Assignment Agreement (Either Economic Development or Housing)

No costs have been incurred after the Completion Date of the above contract. All necessary documents and procedures have been followed, thereby finalizing the above referenced contract.

Becky Voorhies

Preparer's Name

Grant Administrator

620-431-0080

Title

Telephone Number

11/30/10

Date

GRANTEE’S/CONTRACTOR’S RELEASE FORM

1 Pursuant to the terms on Grant Agreement Number 10-PF-013 and in consideration of
 2 the sum of One Hundred Ten Thousand Seven Hundred Five (\$110,705) which has been
 3 or is to be paid under the said contract to City of Cherryvale,
 4 grantee upon payment of the said sum by the State of Kansas, Department of Commerce, hereinafter
 5 called the grantor, does remise, release, and discharge the grantor, its officers, agents and employees
 6 of and from all liabilities, obligations, claims, and demands whatsoever under or arising from the
 7 said contract.

8 IN WITNESS WHEREOF, this release has been executed this 6th day of
 9 Decemeber, 2010.

10 Signature of Authorized Elected Official: _____

11 Typed Name and Title: John Wright, Mayor

ATTEST AND SEAL

12 _____
 13 _____

FINAL INDEPENDENT AUDITOR'S REPORT

If the grantee expends \$500,000 or more from all Federal sources in any fiscal year in which the grant is open, an A-133 audit is required from the grantee. If you expend or expect to expend this amount in the current fiscal year, please indicate below. If required, a copy of the entire audit report must be submitted to Commerce in the required time period.

- A. A-133 audit is not required.
- B. Audit is complete and one copy is enclosed.
- C. Audit is in progress or not yet begun.

Auditor's Name: _____
 Address: _____
 Telephone: _____
 Contact person with firm: _____
 Date audit to begin: _____
 How the audit will be paid for: _____
 Date audit to be completed: _____

Form 4

CERTIFICATE OF COMPLETION

A. Name of Grant Recipient City of Cherryvale	B. Grant Agreement Number 10-PF-013
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C. Final Statement of Cost

Program Activity Categories	To Be Completed By The Recipient			To Be Completed By CDBG
	Paid Costs (a)	Local Unpaid Costs (b)	Total Costs (c)	Approved Total Costs
1. Street Improvements	\$ 184,316.16		\$ 184,316.16	
2. Engineering Design	\$ 11,950		\$ 11,950	
3. Engineering Inspection	\$ 10,078.50		\$ 10,078.50	
4. Administration	\$ 15,000	0	\$ 15,000	
5.		0		
6.	\$		\$	
7.	\$		\$	
8.	\$		\$	
9. Total Program Costs	\$221,344.66		\$ 221,344.66	
10. Less Other Funds Applied	\$110,639.66		\$110,639.66	
11. CDBG Grant Amount Applied	\$ 110,705		\$ 110,705	

D. Computation of Grant Balance

	To Be Completed By The Recipient	To Be Completed By CDBG
12. Total Amount Applied (Line 11a)	\$ 110,705	
13. Estimated for Unsettled Third-Party Claims	0	
14. Subtotal (Line 11c)	\$ 110,705	
15. Grant Amount Per Agreement (from contract)	\$ 120,408	
16. Unutilized Grant to be Canceled (Line 15 less Line 14)	\$ 9,703	
17. Grant Funds Received	\$ 110,705	
18. Balance of Grant Payable (Refundable) (Line 14 less Line 17)*	0	

* If Line 17 exceeds Line 14, enter excess as a negative amount. This amount shall be repaid to the Department by check.

CERTIFICATE OF COMPLETION - PAGE 2

E. Unpaid Costs and Unsettled Third-Party Claims (Local Only)

List amounts and describe circumstances

Check if continued on additional sheet and attach

F. Remarks

Check if continued on additional sheet and attach

G. Certification of Recipient

It is hereby certified that all activities undertaken by the recipient with funds provided under the Grant Agreement identified as Item B above have, to the best of my knowledge, been carried out in accordance with the Grant Agreement; that proper provision had been made by the recipient for payment of all unpaid costs and unsettled third-party claims identified in Item E above; that the Department, the State of Kansas, and the United States of America are under no obligation to make any further payment to the recipient under the Grant Agreement in excess of the amount identified on Line 18 above; and that every statement and amount set forth in this instrument is, to the best of my knowledge, true and correct as of this date.

12/6/10

John Wright, Mayor

Date

Signature of Chief Elected Official

Typed Name and Title

H. Department Approval

This Certificate of Completion is hereby approved. Therefore, I authorize cancellation of the unutilized contract agreement and related funds reservation and obligations _____ (line 16 above).

Date

Signature of Rural Development Division
Director

Typed Name

CIVIL RIGHTS - DEMOGRAPHICS

Grantee: City of Cherryvale Grant Number: 10-PF-013

To document compliance with Title VI of the Civil Rights Act of 1964, provide the information in the space provided below.

- Total Number of City/County Employees (Full-Time Salaried) hired and paid with CDBG funds by the grantee since award of grant 0. Break out these hires in table below:

ANNUAL SALARY							CLASSIFICATION					
	Ethnicity:		Less than \$10,000	\$10,000 -- \$15,000	\$15,001 -- \$20,000	\$20,001 -- \$30,000	Over \$30,000 +	Managerial/ Administrative Professional	Clerical	Equipment Operators- Laborers/ Maintenance	Protective Services (Police/Fire)	Other
	Hispanic	Non-Hispanic										
White												
*BAA												
BAA/W												
AI/AN												
NH/PI												
A												
A/W												
AI/AN/BAA												
AI/AN/W												
Other												
Female Head of Household												
Persons with Disability												

2. Total Population of Applicant: 2,386

	Ethnicity Number				Ethnicity Number		
	Hispanic	Non-Hispanic	Total Population		Hispanic	Non-Hispanic	Total Population
White	<u>66</u>	<u>2,245</u>	<u>2,311</u>	A	<u>0</u>	<u>3</u>	<u>3</u>
BAA	<u>0</u>	<u>2</u>	<u>2</u>	A/W	<u>0</u>	<u>0</u>	<u>0</u>
BAA/W	<u>1</u>	<u>0</u>	<u>1</u>	AI/AN/BAA	<u>0</u>	<u>0</u>	<u>0</u>
AI/AN	<u>8</u>	<u>47</u>	<u>55</u>	AI/AN/W	<u>7</u>	<u>0</u>	<u>7</u>
NH/PI	<u>0</u>	<u>0</u>	<u>0</u>	Other	<u>0</u>	<u>89</u>	<u>89</u>

Female Head of Household: 109

Number of Persons with Disability: 595

Source of population data: 2000 Census

*BAA-Black African American; BAA/W-Black African American & White; AI/AN-American Indian or Alaskan Native; NH/PI-Native Hawaiian or Pacific Islander; A-Asian; A/W-Asian & White; AI/AN/BAA-American Indian or Alaskan Native & Black African American; AI/AN/W-American Indian or Alaskan Native & White

CDBG PROGRAM TOTAL BENEFICIARY REPORT PROGRAM BENEFITS

Program Activity	Housing Units Completed	Total No. of Beneficiaries	LMI Beneficiaries			White	BAA	BAA/W	AI/AN	NH/PI	A	A/W	AI/AN/BAA	AI/AN/W	Other	Disabled	Female Head of Household	Ethnicity - Hispanic	Ethnicity - Non-Hispanic
			80%	50%	30%														
1. Housing Rehabilitation																			
2. Demolition																			
3. Relocation																			
4. Utilities/Gas Lines/Electric																			
5. Water System																			
6. Sewer System																			
7. Community Facilities																			
8. Neighborhood Facilities																			
9. Senior Center																			
10. Other Facilities																			
11. ADA																			
12. Recreation																			
13. Fire Protection																			
14. Streets		2,386	880	202	190	2,245	2	47		3				89	595	109	66	2,320	
15. Flood/Disaster																			
16. Urgent Need																			
17. Economic Development																			
18. ED - Micro-Loan																			
19.																			
20.																			
21.																			

NUMBER OF BENEFICIARIES BY CATEGORY SHOULD BE REPORTED FOR EACH PROGRAM ACTIVITY BUDGETED.

*BAA-Black African American; BAA/W-Black African American & White; AI/AN-American Indian or Alaskan Native; NH/PI-Native Hawaiian or Pacific Islander; A-Asian; A/W-Asian & White; AI/AN/BAA-American Indian or Alaskan Native & Black African American; AI/AN/W-American Indian or Alaskan Native & White

Source of Beneficiary Data: 2000 Census

CDBG PROGRAM HISPANIC BENEFICIARY REPORT PROGRAM BENEFITS

Program Activity	Housing Units Completed	Total No. of Beneficiaries	LMI Beneficiaries			White	BAA	BAA/W	AI/AN	NH/PI	A	A/W	AI/AN/BAA	AI/AN/W	Other	Disabled	Female Head of Household	Ethnicity - Hispanic	Ethnicity - Non-Hispanic
			80%	50%	30%														
1. Housing Rehabilitation																			
2. Demolition																			
3. Relocation																			
4. Utilities/Gas Lines/Electric																			
5. Water System																			
6. Sewer System																			
7. Community Facilities																			
8. Neighborhood Facilities																			
9. Senior Center																			
10. Other Facilities																			
11. ADA																			
12. Recreation																			
13. Fire Protection																			
14. Streets			50	6	10	66													
15. Flood/Disaster																			
16. Urgent Need																			
17. Economic Development																			
18. ED - Micro-oan																			
19.																			
20.																			
21.																			

NUMBER OF BENEFICIARIES BY CATEGORY SHOULD BE REPORTED FOR EACH PROGRAM ACTIVITY BUDGETED.

*BAA-Black African American; BAA/W-Black African American & White; AI/AN-American Indian or Alaskan Native; NH/PI-Native Hawaiian or Pacific Islander; A-Asian; A/W-Asian & White; AI/AN/BAA-American Indian or Alaskan Native & Black African American; AI/AN/W-American Indian or Alaskan Native & White

Source of Beneficiary Data: 2000 Census

Grantee's Legal Review and Closeout Report

Pursuant to the terms on Grant Agreement No. 10-PF-013 and in consideration of the sums paid or to be paid to the (City/County) of Cherryvale, (hereafter GRANTEE) under said grant by the Kansas Department of Commerce, Small Cities Community Development Block Grant program, (hereafter Commerce/CDBG) and in closeout of said agreement, GRANTEE does hereby represent to Commerce/CDBG the following:

- 1. That certain UCC financing statements were properly filed with the Kansas Secretary of State or other appropriate filing agency on (no UCC statements filed).
- 2. That such financing statements evidence the GRANTEE's continuing financial interest in the loans made to this project.
- 3. That John Wright (name of GRANTEE official or official designee) who is the Mayor (position/title) has been instructed on the importance of proper filing of continuation statements on these financing statements, that such continuation statements must be filed only within the last six months of the five-year period in order to avoid a lapse in coverage by the statement, that any change in collateral by the company will be discussed with Commerce/CDBG before such change is allowed, and that if the loan is paid in full during the period of the UCC financing statement, such official or designee will cause a proper termination statement be filed by GRANTEE in order to avoid statutory lender penalties.
- 4. That such official will insure that any payments made on this loan are promptly recorded and forwarded to Commerce/CDBG as previously instructed by Commerce/CDBG personnel.
- 5. That the (County Counselor/County Attorney/City Attorney) has a valid copy of this representation.

Name of Grantee Official: John Wright
(please type)

Signature: _____

Title: Mayor

Date: December 6, 2010

ATTEST & SEAL:

Rural Development Division Director
Kansas Department of Commerce

CITY COUNCIL ACTION REPORT

Proposed Agenda Date: December 6, 2010

Subject: Ordinance No. 10-4599 & 10-4560: Setting Water and Sewer Rates

Guest: None

Background: Ordinance No. 10-4599 & 10-4560 were drafted in anticipation of the City Administrator's annual presentation to the Governing Body of the City's enterprise funds on November 15, 2010. At the meeting, the Governing Body decided to table the ordinances until the December 6th meeting.

Three rate options for each utility were presented during the annual enterprise fund review on November 15th and will be discussed again for review. The Governing Body should choose the appropriate rate to address the financial state of the funds.

Financial Consideration: A rate increase will generate additional revenues to recapture the City's costs in maintaining the water and sanitary sewer systems and ensure the financial solvency of these funds. The amount of revenue generated will depend upon which rates the Governing Body selects.

Legal Consideration: These ordinances have been reviewed and approved by the City Attorney.

Policy Consideration: The Governing Body has expressed a desire to ensure that the utility rates are reflective of the City's actual costs in providing the services to its customers.

Recommendation: Adopt Ordinance No. 10-4599 & 10-4600.

ORDINANCE NO. 10-4599

AN ORDINANCE SETTING WATER RATES AS OF DECEMBER 1, 2010 AND REPEALING ALL ORDINANCES AND RESOLUTIONS IN CONFLICT THEREWITH

WHEREAS, the City of Cherryvale has a commitment to provide quality water to all of its customers; and

WHEREAS, the City of Cherryvale Water Distribution System is in dire need of upgrades and repairs; and

WHEREAS, the City of Cherryvale must fund increased debt service expenses as a result of the 2009 Waterline Project;

WHEREAS, a water rate study performed by staff of the City of Cherryvale Water Distribution System concluded that water rates should be increased in order to properly maintain the system and address increased debt service expenses.

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

SECTION 1. WATER RATES. Water rates are hereby changed to \$8.00 for a base service charge and a unit charge of \$_____ per 1,000 gallons of water consumed. The charge for bulk water shall not exceed the rate of \$10.00 per 1,000 gallons of water consumed.

SECTION 2. RURAL WATER RATES. Rural water rates are hereby changed to \$8.00 for a base service charge and a unit charge of \$_____ per 1,000 gallons of water consumed.

SECTION 3. EFFECTIVE. This ordinance shall be effective after passage and publication is complete and for all meter readings beginning December 1, 2010.

SECTION 4. REVIEW. The City Administrator or his or her designee shall continue to perform a rate review on a yearly basis and present his or her findings to the Governing Body at the last Council Meeting in November.

SECTION 5. REPEAL. Ordinance No. 09-4584 is hereby repealed.

Passed by the Governing Body of the City of Cherryvale this 6th day of December, 2010.

John M. Wright, Mayor

Attest:

Rebecca Swain, City Clerk

ORDINANCE NO. 10-4600

AN ORDINANCE SETTING SEWER RATES AS OF DECEMBER 1, 2010 AND REPEALING ALL ORDINANCES AND RESOLUTIONS IN CONFLICT THEREWITH

WHEREAS, the City of Cherryvale has a commitment to provide quality sanitary sewer service to all of its customers; and

WHEREAS, the City of Cherryvale Sanitary Sewer Distribution System is in dire need of upgrades and repairs; and

WHEREAS, a sewer rate study performed by staff of the City of Cherryvale Sanitary Sewer Distribution System concluded that sewer rates should be increased in order to maintain the solvency of the sewer fund and accomplish necessary repairs and renovations to the system.

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

SECTION 1. SEWER RATES. Sewer rates are hereby changed to \$7.95 for a base service charge and a unit charge of \$_____ per 1,000 gallons of water consumed based on an average of the November, December and January water consumption.

SECTION 2. RURAL SEWER RATES. The rates for properties located outside of the Cherryvale city limits shall be \$11.93 for a base service fee and a unit charge of \$_____ per 1,000 gallons of water consumed, based on an average of the November, December and January water consumption.

SECTION 3. EFFECTIVE. This ordinance shall be effective after passage and publication is complete.

SECTION 4. REVIEW. The City Administrator or his or her designee shall continue to perform a rate review on a yearly basis and present his or her findings to the Governing Body at the last Council Meeting in November.

SECTION 5. REPEAL. Ordinance No. 08-4554 is hereby repealed.

Passed by the Governing Body of the City of Cherryvale this 6th day of December, 2010.

John M. Wright, Mayor

Attest:

Rebecca Swain, City Clerk

Cherryvale City Council Meeting
November 15, 2010, 7:00 p.m.

CITY OF CHERRYVALE

**MEETING OF THE CITY COUNCIL
REGULAR MEETING
NOVEMBER 15, 2010
7:00 p.m.**

Working for a better tomorrow... today.

CALL MEETING TO ORDER

Mayor Wright called the meeting to order.

Present: Mayor John Wright, Council President Chad Wickham, Council Member Lew Forman, Council Member Kevin Crain, Assistant City Administrator/City Clerk Becky Swain, Public Works Director Wade Webber, Reverend Jeff McCollough, Laurence Tull, and Wayne Hallowell

INVOCATION

Reverend Jeff McCollough gave the invocation.

PLEDGE OF ALLEGIANCE

Everyone present participated in the Pledge of Allegiance

ROLL CALL

City Clerk Becky Swain called roll. Present: Mayor Wright, Council President Wickham, Council Member Crain, and Council Member Forman. Absent: Council Member Wagoner.

CONSIDERATION OF MINUTES

Regular Meeting, November 1, 2010. **Council Member Crain made a motion to adopt the minutes of the November 1, 2010 regular meeting; seconded by Council President Wickham. All votes aye.**

PUBLIC FORUM

GOVERNING BODY COMMENTS

Mayor John Wright – He thanked Dewey’s Auto Parts for their years of service to our community and wished Bumper to Bumper luck.

Council Member Chad Wickham – He had no comments.

Council Member Kevin Crain – He had no comments.

Council Member Randy Wagoner – He was absent.

Council Member Lew Forman, Jr. – He had no comments.

NEW BUSINESS

A. ANNUAL ENTERPRISE FUND ANALYSIS

Presented by Greg McDanel, City Administrator

RECOMMENDED ACTION: Receive & file.

B. ORDINANCE NO. 10-4599: SETTING WATER RATES

Presented by Greg McDanel, City Administrator

Cherryvale City Council Meeting

November 15, 2010, 7:00 p.m.

RECOMMENDED ACTION: Adopt Ordinance No. 10-4599.

Council Member Crain made a motion to table New Business items B and C until the December 6, 2010 Council Meeting; Seconded by Council President Wickham.

C. ORDINANCE NO. 10-4600: SETTING SEWER RATES

Presented by Greg McDanel, City Administrator

RECOMMENDED ACTION: Adopt Ordinance No. 10-4600.

D. DEPOSITORY & BANKING SERVICES

Presented by Becky Swain, Assistant City Administrator/City Clerk

RECOMMENDED ACTION: Award the City's depository and banking services to Community National Bank.

Council President Wickham made a motion to award the City's depository and banking services to Community National Bank; seconded by Council Member Crain. All votes aye.

E. RESOLUTION NO. 10-17: SETTING 2011 OFFICIAL CITY HOLIDAYS

Presented by Greg McDanel, City Administrator

RECOMMENDED ACTION: Adopt Resolution No. 10-17.

Council President Wickham made a motion to adopt Resolution No. 10-17; seconded by Council Member Forman. All votes aye.

CONSENT AGENDA

Presented by John Wright, Mayor.

1. Appropriations Ordinance No. 10-1112	\$321,778.74
a. Approval of Purchases over \$5,000	
i. PWWSD #4 (Water Bill)	\$26,332.00
ii. SE-Kan Asphalt (Main Street Overlay)	\$184,012.36
iii. SEKRPC (CDBG Project Administration)	\$6,575.00
iv. Tri-Star Utilities (Parkwest Subdivision)	\$60,206.94
2. Terracon (Brownfields Consultant)	\$10,310.38
Hazardous Substance Grant – \$7,592.69	
Petroleum Grant – \$2,717.69	
3. Tri-Star Utilities (KHRC Infrastructure Grant, payment # 3)	\$60,206.94
4. TranSystems	\$22,293.50
KHRC Housing Infrastructure Grant – \$12,215.00	
2010 CDBG Main Street Overlay – \$10,078.50	
5. SEKRPC, Administration 2010 CDBG Main Street Overlay	\$6,575.00

RECOMMENDED ACTION: Approve consent agenda as presented.

Council Member Crain made a motion to approve the consent agenda as presented; seconded by Council President Wickham. All votes aye.

Cherryvale City Council Meeting

November 15, 2010, 7:00 p.m.

INFORMATIONAL ITEMS

1. Cherryvale Christmas Parade – Thursday, December 2, 2010 at 6:30 p.m.
2. LKM Regional Supper – Thursday, November 18, 2010 in Parsons at 6:00 p.m.
3. Leaf Pick Up Schedule

ADJOURNMENT

Council President Wickham made a motion to adjourn; seconded by Council Member Crain. All votes aye.

Respectfully Submitted,

Special Meeting of the Cherryvale City Council

November 23, 2010 5:30 p.m.

**SPECIAL MEETING
CHERRYVALE CITY COUNCIL**

Cherryvale City Council Chambers, 123 W. Main Street

Cherryvale, Kansas 67335

November 23, 2010

5:30 p.m.

NEW BUSINESS

- A. HIRE FIRM TO PERFORM ARCHITECTURAL/ENGINEERING SERVICES
FOR THE 2011 CDBG KAN-STEP GRANT PROGRAM

Council Member Wagoner made a motion to accept the proposal from Devore Associates Architects to perform the architectural and engineering services for the 2011 CDBG KAN-STEP grant project; seconded by Council President Wickham. All votes aye.

ADJOURNMENT

Council President Wickham made a motion to adjourn; seconded by Council Member Crain. All votes aye.

CITY OF CHERRYVALE

Warrant Ordinance Number: 10-1124 Date: Wednesday, November 24, 2010

Detail of Checks Processed On Wednesday, November 24, 2010

Bk	Chk Num	Date	Vendor Number & Name	Voucher Num	Date	Voucher Amt	Memo
10	32838	11/24/10	00073 AFLAC FLEX ONE	20100863	11/16/10	35.00	FSA Service Fees for 11/1-11/30/10
	32839		00079 AIRGAS MID SOUTH, INC.	20100902	11/23/10	20.61	INVOICE #106339302; NITROUS OXIDE
	32840		00115 ALLIED WASTE SERVICES #376	20100860	11/15/10	12,536.96	COLLECTIONS & POLYCARTS FOR OCT. 12-NOV 22, 2010
	32841		00600 BLUE CROSS-BLUE SHIELD	20100861	11/15/10	399.17	Dental Insurance Premiums for December 2010
	32842		00700 BULLARD, JOHN R.	20100865	11/16/10	1,350.00	PROFESSIONAL SERVICES FOR OCTOBER 2010
	32843		00916 CARESIO, BEAU	20100884	11/18/10	120.00	REIMBURSEMENT FOR MILEAGE TO WICHITA 11/19/10-EMT-TESTING
	32844		01350 CHERRYVALE VETERINARY CLINIC	20100866	11/16/10	189.00	ACCT #3107; EUTHANASIAS
	32845		00866 CJ's THREADS EMBROIDERY, LLC	20100901	11/23/10	190.00	INVOICE #7607; UNIFORMS JACKETS
	32846		01738 Conrad Fire Equipment	20100867	11/16/10	32.26	INVOICE #468066; SOCKET ASSY FOR UNIT #501
	32847		02087 DIGITAL CONNECTIONS	20100888	11/22/10	291.06	INVOICE #22826; BLACK & WHITE AND COLOR COPIES FOR 10/18/10 TO 11/17/10
	32848		02125.5 DIVISION OF ENVIRONMENT	20100870	11/16/10	185.00	WASTE WATER PERMIT #M-VE07-OO02; ANNUAL WASTEWATER PERMIT FOR DECEMBER 2010 TO DECEMBER 2011
	32849		02590 FLEET SERVICES	20100859	11/15/10	3,354.62	ACCT #0417-00-790559-9; INVOICE #24421350; GASOLINE
	32850		02920 HAWKINS HEATING & COOLING, INC	20100896	11/22/10	65.00	INVOICE #8668; SERVICE CALL ON 11/1/10-FOR HEATERS AT OLD WATER PLANT
	32851		02995 HFE PROCESS	20100897	11/23/10	154.14	INVOICE #P6092; LIFT STATION PARTS
	32852		03130 HOME & BUSINESS COMMUNICATIONS	20100869	11/16/10	108.00	SERVICE CALL FOR 11/12/2010-MOVE PHONE EXTENSION
	32853		02700 JIM GILL AGENCY, INC.	20100868	11/16/10	50.00	INVOICE #18696; NOTARY BOND
	32854		06795 KANSAS SECRETARY OF STATE	20100872	11/16/10	25.00	NOTARY APPOINTMENT - PAULINE BURNOR
	32855		03760 KANSAS STATE FIREFIGHTERS'ASC.	20100871	11/16/10	50.00	2011 MEMBERSHIP DUES
	32856		04233 LABETTE HEALTH PHYSICIANS GRP	20100873	11/16/10	32.80	FLU SHOT
	32857		05000 LOCKWOOD COMPANY, INC.	20100883	11/18/10	30.65	INVOICE #096484; 2011 CEREAL MALT BEVERAGE LICENSES
	32858		05012.5 MCELROY, TIANA	20100874	11/16/10	325.00	CONTRACT LABOR
	32859		05033 MEDICLAIMS, INC.	20100906	11/24/10	1,423.50	INVOICE #08-14524; AMBULANCE BILLING
	32860		05315 MONTGOMERY COUNTY	20100903	11/23/10	69.46	MORTGAGE FILING FEE - 315 E. 5TH STREET, NORTON
	32861		05550 MUTUAL OF OMAHA INSURANCE CO.	20100862	11/16/10	269.71	Life/AD&D/STD Insurance Premiums for December 2010
	32862		06210 POSTMASTER	20100875	11/16/10	285.00	POSTAGE FOR WATER BILLS
	32863		06226 PREFERRED HEALTH SYSTEMS	20100864	11/16/10	10,049.83	Health Insurance Premiums for December 2010
	32864		07025 S.E.K. REGIONAL PLANNING COMM.	20100899	11/23/10	2,835.00	INVOICE #CV 500; HQS Inspection; Risk assessment; Clearance at 315 E 6th; 5% Administration

CITY OF CHERRYVALE

Warrant Ordinance Number: 10-1124 Date: Wednesday, November 24, 2010
 Detail of Checks Processed On Wednesday, November 24, 2010

Bk	Chk Numb and Date	Vendor Number & Name	Voucher Num and Date	Voucher Amt	Memo
10	32865 11/24/10 06733	SEIFERT, KAREN	20100886 11/19/10	38.00	REIMBURSEMENT FOR MILEAGE TO CHANUTE ON 11/17/2010
	32866 07457	TERRACON	20100887 11/19/10	10,310.38	EPA BROWNFIELDS GRANT 2B7707501; 2B7707601
	32867 04560	THE LOCK DOCTOR	20100882 11/18/10	170.00	INVOICE #9272; SERVICE CALL AT COMMUNITY CENTER - LOCK REPLACEMENT
	32868 07590	TRANSYSTEMS CORP.	20100877 11/17/10	22,293.50	PROJECT #P112090039-INVOICE #1974459-PARK WEST SUBDIVISION; PROJECT #P112100036-INVOICE #1976557-2010 STREET OVERLAY-
	32869 07680	UNITED STATES POSTAL SERVICE	20100876 11/16/10	285.00	ACCT #19100676; POSTAGE FOR POSTAGE MACHINE
	32870 08150	WRIGHT, JOHN	20100898 11/23/10	21.00	REIMBURSEMENT FOR MILEAGE TO PARSONS ON 11/18/2010
112610	11/26/10 00914	CARD SERVICES	20100878 11/17/10	849.51	P-card transactions for P. Lambert, 10/3-11/3/10 purchases
			20100879 11/17/10	985.02	P-card transactions for 10/3-11/3/10 purchases, R. Davis
			20100881 11/17/10	6.00	P-card transactions for 10/3-11/3/10 purchases, A. Cook
			20100885 11/18/10	966.69	P-card purchases for 10/3-11/3/10 transactions, G. McDanel
			20100890 11/22/10	8.00	P-card transactions for 10/3-11/3/10 purchases, C. Russell
			20100891 11/22/10	934.88	P-card transactions for 10/3-11/3/10 purchases, J. Reed
			20100892 11/22/10	285.29	P-card transactions for 10/3-11/3/10 purchases, B. Swain
			20100893 11/22/10	41.27	P-card transactions for 10/3-11/3/10 purchases, T. King
			20100894 11/22/10	31.07	P-card purchases for 10/3-11/3/10 transactions, M. Dennis
			20100895 11/22/10	29.28	P-card purchases for 10/3-11/3/10 transactions, M Pena
			20100904 11/23/10	334.32	P-card transactions for 10/3-11/3/10 purchases, M. Beye
			20100905 11/23/10	6,077.36	P-card transactions for 10/3-11/3/10 purchases, W. Webber
			20100907 11/24/10	46.89	P-Card Statement for K. Seifert, 10/3 - 11/3/10 transactions
			Check Total	10,595.58	

CITY OF CHERRYVALE

Warrant Ordinance Number: 10-1124 Date: Wednesday, November 24, 2010
Detail of Checks Processed On Wednesday, November 24, 2010

Bk	Chk Numb and Date	Vendor Number & Name	Voucher Num and Date	Voucher Amt	Memo
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			Grand Total	78,190.23	
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Passed this 6th day of December, 2010

Signed this 24th day of November, 2010

37,873.43 - payroll
\$116,063.66

_____ Mayor

Attest:

_____ City Clerk

Ewing Construction

510 N. Lincoln
 Erie, KS 66733
 620-820-4076

INVOICE

BILL TO:
 City of Cherryvale
 123 W. Main
 Cherryvale, KS 67335
 ATTN: Becky Swain

INVOICE NUMBER | 1
INVOICE DATE | November 22, 2010
PURCHASE ORDER NO.
TERMS
SALES PERSON
SHIPPED VIA
F.O.B.

SHIPPED TO:

QTY	DESCRIPTION	PRICE	AMOUNT
1	315 E. 5th- Homeowner rehabilitation	23,100	23,100
SUBTOTAL			23,100
TAX RATE			0.00%
TAX			0.00
FREIGHT			0.00
TOTAL DUE			\$23,100



INVOICE

3113 SW Van Buren St
Topeka, KS 66611
785-267-3310

Project Manager: Bridget Aeschliman

Project: Cherryvale Brownfields HS Assessment - Phase II
Cooperative Agreement No.: 2B97707501
Various Sites
Cherryvale, KS

To: City of Cherryvale, KS
Attn: Greg McDanel
123 West Main Street
Cherryvale, KS 67335

REMIT TO:	
Invoice Number: T171551	
Terracon Consultants, Inc.	
PO Box 843358	
Kansas City, MO 64184-3358	
Federal E.I.N.: 42-1249917	

Project Number:	14107010
Invoice Date:	12/01/2010
For Period:	10/24/2010 to 11/20/2010

Work Authorization #13, 14, 15 & 17

Quantity	Description of Services	Rate	Total
TASK: EPA Task 4 - Phase II - 712 S Liberty			
Direct Project Labor			
3.00 Hour(s)	Senior Project Manager	\$120.00	\$360.00
10.50 Hour(s)	Field Scientist	\$72.00	\$756.00
		Subtotal	\$1,116.00
		Task Total	\$1,116.00
TASK: EPA Task 4 - Phase II Assessment 101/103 E Main			
Direct Project Labor			
1.50 Hour(s)	Senior Project Manager	\$120.00	\$180.00
1.25 Hour(s)	Clerical	\$45.00	\$56.25
		Subtotal	\$236.25
Direct Project Expense			
\$3,458.50	Cost+ Contract Lab Services	20%	\$4,150.20
		Task Total	\$4,386.45
TASK: EPA Task 4 - Phase II Assessment 0 N. Depot			
Direct Project Labor			
5.00 Hour(s)	Senior Project Manager	\$120.00	\$600.00
20.75 Hour(s)	Field Scientist	\$72.00	\$1,494.00
0.50 Hour(s)	Clerical	\$45.00	\$22.50
		Subtotal	\$2,116.50
Direct Project Expense			

TERMS: DUE UPON PRESENTATION OF INVOICE



INVOICE

Invoice Number: T171551
Project Number: 14107010
Project: Cherryvale Brownfields
 HS Assessment -
 Phase II

Project Manager: Bridget Aeschliman

Work Authorization #13, 14, 15 & 17

Quantity	Description of Services	Rate	Total
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Continued

TASK: EPA Task 4 - Phase II Assessment 0 N. Depot

Direct Project Expense

285.00 Mile(s)	Mileage	\$0.63	\$179.55
2.00 Day(s)	Per Diem	\$115.00	\$230.00
	Subtotal		\$409.55
	Task Total		\$2,526.05

Invoice Total	\$8,028.50
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INVOICE

3113 SW Van Buren St
Topeka, KS 66611
785-267-3310

Project Manager: Bridget Aeschliman

Project: Cherryvale Brownfield Petroleum Assessment - Phase
Cooperative Agreement No.: 2B97707601
Various Sites
Cherryvale, KS

To: City of Cherryvale, KS
Attn: Greg McDanel
123 West Main Street
Cherryvale, KS 67335

REMIT TO:	
Invoice Number: T171550	
Terracon Consultants, Inc. PO Box 843358 Kansas City, MO 64184-3358	
Federal E.I.N.: 42-1249917	

Project Number:	14107008
Invoice Date:	12/01/2010
For Period:	10/24/2010 to 11/20/2010

Work Authorizations #9, 10, 11 & 12

Quantity	Description of Services	Rate	Total
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TASK: EPA Task 3: Phase II Assessment - 0 W 3rd PSAP & Phase II

Direct Project Labor

4.00 Hour(s)	Senior Project Manager	\$120.00	\$480.00
21.50 Hour(s)	Field Scientist	\$72.00	\$1,548.00
		Subtotal	\$2,028.00

Direct Project Expense

\$617.50 Cost+	Contract Lab Services	20%	\$741.00
270.00 Mile(s)	Mileage	\$0.63	\$170.10
2.50 Day(s)	Per Diem	\$115.00	\$287.50
		Subtotal	\$1,198.60

Task Total \$3,226.60

TASK: EPA Task 3: Phase II Assessment - 100 East Main PSAP

Direct Project Labor

7.00 Hour(s)	Senior Project Manager	\$120.00	\$840.00
35.50 Hour(s)	Field Scientist	\$72.00	\$2,556.00
0.75 Hour(s)	Clerical	\$45.00	\$33.75
		Subtotal	\$3,429.75

Direct Project Expense

253.00 Mile(s)	Mileage	\$0.63	\$159.39
2.50 Day(s)	Per Diem	\$115.00	\$287.50
		Subtotal	\$446.89

Task Total \$3,876.64

TERMS: DUE UPON PRESENTATION OF INVOICE



INVOICE

Invoice Number: T171550
Project Number: 14107008
Project: Cherryvale Brownfield
Petroleum Assessment
- Phase

Project Manager: Bridget Aeschliman

Invoice Total **\$7,103.24**

DEPOSITORY AND BANKING SERVICES AGREEMENT

This Agreement is hereby entered into this ____ day of _____, 2010, by and between the City of Cherryvale, Kansas, a municipal corporation (hereinafter referred to as the “City”), and Community National Bank & Trust, a national banking association with a local office located in Cherryvale, Kansas (hereinafter referred to as the “Banking Institution”).

WHEREAS, on October 5, 2010 the City requested proposals for depository and banking services, by distributing a document entitled Request for Proposal Depository and Banking Services (January 4, 2011 through January 3, 2014), which is attached hereto, and hereinafter referred to as the “Request”; and

WHEREAS, pursuant to the Request, the Banking Institution submitted a Banking Services Proposal and a subsequent Addendum No. 1 which are attached hereto, and hereinafter referred to as the “Proposal”; and,

WHEREAS, the City desires to accept the Proposal, and the parties desire to enter into this Agreement to set forth their respective rights and obligations.

NOW, THEREFORE, in consideration of their mutual promises, obligations and covenants, the parties hereto agree as follows:

1. The Banking Institution is hereby designated as the City’s depository and banking institution for an initial twelve (12) month term commencing January 4, 2011. This agreement shall automatically renew for two (2) additional twelve month terms, unless terminated by either party upon ninety (90) days written notice prior to the end of the initial or renewal twelve (12) month term, or as otherwise provided herein. This Agreement may not be terminated by either party solely on the basis of profitability or non-profitability. Notwithstanding the term provided for herein, if either party fails to fulfill any obligation hereunder, including those obligations set forth in the attachments hereto, the other party may deliver written notice to the obligor, specifying the acts or omissions constituting such failure, and further specifying that this Agreement will terminate upon a date not less than sixty (60) days after receipt of the notice, unless the obligor corrects the acts or omissions within such period of time. At the end of such period, if satisfactory corrections have not been made, the party providing such notice may notify the other party that the Agreement is terminated at that time, or at some future specified time, if additional time is needed by either party to dissolve the relationship. A party who terminates this Agreement based upon the breach of the other party may recover only those damages directly sustained as a result of such breach, but may not recover damages arising from the termination itself. Notwithstanding the foregoing, termination of this Agreement shall be the sole remedy for a breach of the provisions set forth in paragraphs 5 and 6, and the terminating party shall not be entitled to any other damages as a result of such breach.

In addition to the termination provision set forth above, the parties hereto understand and agree that the City is a Kansas municipality, and as such, is bound by the provisions of the Kansas Cash Basis Law. The failure of the Governing Body of the City to budget or appropriate funds, past the current calendar year, necessary for any obligation of the City under the terms of this Agreement, shall not be deemed a breach of this Agreement. In such event, the City shall notify the Banking Institution as soon as possible, and this Agreement shall terminate at the end of the calendar year in which such funds are budgeted or appropriated.

2. Both parties will comply with the terms and conditions outlined in the Request. The Request is hereby incorporated herein by reference and made a part of this contract.

3. The Banking Institution further will comply with the terms and conditions outlined in the Proposal and all amendments thereto. The Proposal and all attachments thereto is hereby incorporated by reference and made a part of this Agreement.

4. The City will provide reasonable notice of any major cash outflows or cash inflows to the Banking Institution.

5. The Banking Institution specifically agrees to abide by all federal, state, and local laws, regulations, statutes, or ordinances that are applicable to its operation, or to the terms of this Agreement. Specifically, the Banking Institution agrees that it will comply with Section 504 of the Rehabilitation Act of 1973, as amended, and with Americans with Disabilities Act of 1990, as such Acts apply to it as a publicly owned corporation.

6. The Banking Institution agrees to secure the City's funds held in all accounts in conformance with K.S.A. 9-1402, et seq., at all times. Specifically, the Banking Institution agrees to provide a weekly report of collateral pledged with its market value at that time, and such reports shall confirm that the City's funds are 100% secured.

7. The Banking Institution specifically agrees to be bound by, and comply with, the provisions of K.S.A. 44-1030, the Kansas Act Against Discrimination. Such requirements are as follows:

- a.) The Banking Institution shall observe the provisions of the Kansas Act Against Discrimination and shall not discriminate against any person in the performance of work under the present Agreement, or any extension thereof, because of race, religion, color, sex, disability, national origin, or ancestry;
- b.) In all solicitations or advertisements for employees, the Banking Institution shall include the phrase, "equal opportunity employer," or a similar phrase approved by the Kansas Human Rights Commission;
- c.) If the Banking Institution fails to comply with the manner in which it reports to the Kansas Human Rights Commission, if required by the provisions of K.S.A. 44-1031, and amendments thereto, the Banking Institution shall be deemed to have breached the

present Agreement, or any extension, and it may be canceled, terminated, or suspended, in whole or in part by the City;

d.) If the Banking Institution is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the Kansas Human Rights Commission which has become final, the Banking Institution shall be deemed to have breached the present Agreement, or any extension, and it may be canceled, terminated, or suspended, in whole or in part, by the City; and

e.) The Banking Institution shall include the provisions of Sub-Sections a) – e) in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor, unless such subcontract is less than Five Thousand Dollars (\$5,000.00) for a fiscal year, or the subcontractor employs less than four (4) employees during the term of the Contract. The parties agree that the provisions of this subparagraph apply only to subcontractors or vendors with which the Banking Institution contracts to perform services solely and directly related to the City’s accounts.

7. Any amendment, modification or variation from the terms of this agreement shall be in writing and shall be effective only upon approval by both parties.

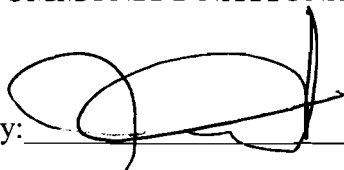
8. This written Agreement, including all writings specifically incorporated herein by reference, shall constitute the complete agreement between the parties hereto. No oral agreement, understanding, or representation not reduced to writing and specifically incorporated herein shall be of any force or effect, nor shall any such oral agreement, understanding, or representation be binding upon the parties hereto.

WHEREFORE, the parties hereto have caused this Agreement to be executed by their officials duly authorized on the date and year first written.

CITY OF CHERRYVALE, KANSAS

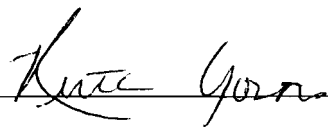
COMMUNITY NATIONAL BANK

By: _____
John Wright, Mayor

By:  _____
EVP

ATTEST:

By: _____
Rebecca Swain, City Clerk

By:  _____

Becky Swain

From: kurfiss [kurfiss@actioncouncil.com]
Sent: Monday, November 29, 2010 3:12 PM
To: Cavaness Renea; Collins Geoff; Goad Chuck; Hawkins Tony; McVey Ronald; Rolls Dickie; Schmid John; doug@ndb-insurance.com; Clark Terry; Collier Don; Ditmore John; Ewy Mike; Gill, Rob; Harsin David; Hendryx Alec; Kays Kym; Kelly Jim; LaForge Frank; Oakes Brad; Scott Danny; Shepard Bob; Stephens Kyle; Thrasher Mike; Wagoner Randy; White Tim; Wickham Chad; Winston, Kenneth; Bain Daniel; Dittmer Donna; Hull Yvonne; Greg McDanel; Morris Jeff; Morton Robert; Paasch Shelley; Passauer Kelly; Schmidt Chuck; Becky Swain; Webb Micky; Whitman Don; Wilburn Gwen
Cc: Eilts Brad
Subject: FW: Economic Development 101

From: Bradley Eilts [mailto:eilts@actioncouncil.com]
Sent: Monday, November 29, 2010 10:15 AM
To: 'kurfiss'
Subject: Economic Development 101

On Dec. 9th, the Kansas Dept of Commerce is holding a workshop, entitled ED 101, from 6:00 to 8:30 pm in the Memorial Building in Independence.

This program covers the importance and scope of economic development efforts, different tools and incentives used in the business retention and recruitment process, and other issues related to economic development in our community, region and State.

This is a great way for business and community leaders, elected officials, the general public, and others to understand the role of economic development in our community and how they can contribute to its success.

Please mark your calendars and plan on attending this workshop. I would encourage you to invite a friend or colleague to attend as well.

In order to assure that we will have enough seats and refreshments, please let us know if you will be able to attend.

Please contact me with any questions.

Thanks – Brad

CHAPTER IV. PUBLIC UTILITIES

Article 1.	General Administration
Article 2.	Water Utility
Article 3.	Water Rates
Article 4.	Water Conservation
Article 5.	Sewer Utility
Article 6.	Sewer Discharge Criteria
Article 7.	Sewer Rates and Cost Recovery
Article 8.	Private Sewer Systems

ARTICLE 1. GENERAL ADMINISTRATION.

4-101. COMBINED ADMINISTRATION. The municipal water system and the municipal sanitary sewer system shall be combined for administrative purposes. Said combined system shall be operated and financed as provided by law. The officer who shall have immediate charge of the combined system shall be the Director of Public Works.

4-102. ADMINISTRATIVE DUTIES. The Director of Public Works shall be responsible for the general management, care, control, installation, maintenance, records management, and supervision of the municipal water and sanitary sewer systems.

4-103. APPLICATION. Application for water and sewer service, or either, shall be made to the City Clerk by the owner or the occupant of the property to be served.

4-104. SERVICE ACCOUNT INITIATION FEE. A Service Account Initiation Fee in the sum of Forty Dollars (\$40.00) shall be paid to the City Clerk by each person, firm or corporation desiring a supply of water from the municipal water and municipal sewer system of the City. Said fee shall be paid at such time consumer requests water service prior to the supply of water from the municipal water system. Upon receipt of said fee, a service account shall be established and the City Clerk shall notify the Director of Public Works or his assistants of the authorization to supply water to consumer's building, place or premises. The requirements of this subsection shall pertain to all consumers either within or outside the City limits and whether or not sewer service is required. The above fee shall not be transferable from one consumer's service account to another consumer's service account. The only exception may be granted by the City Administrator when service transfer is required because of a death.

4-105. LANDLORD SERVICE CONNECTION. A landlord desiring water service on a temporary basis, solely for the purpose of cleaning and repairing the rental property or checking the water system for leaks, may apply to the City Clerk for temporary water service. A landlord service connection shall not be made if the property is occupied. The landlord will pay a Ten Dollar (\$10.00) Landlord Account Initiation Fee to the City Clerk at the time of the application for water service. The account will be charged for usage on a monthly basis at a rate of \$8.00 per 1,000 gallons of water consumed. Account billings and payments shall be made in accordance with Section 4-108 of this Code. Water service will be disconnected at the landlord's request, if

the bill remains unpaid on the 21st of the month per Section 4-109, or if the property becomes occupied No trash or sewer service will be provided to the property.

4-106. SPECIAL SERVICE CONNECTION. A customer desiring water service for any reason other than above, with consumption of less than five hundred (500) gallons of water per month with no sewer usage or trash service, may request a Special Service Connection from the City Council which has a rate of ten (\$10.00) per month.

4-107. TRANSFER FEE. Each consumer shall pay to the City Clerk when requesting a transfer of water or sewer system service to another location as specified by the consumer, a Service Transfer Fee of Fifteen Dollars (\$15.00) for each such transfer. This provision shall apply to consumers both within and outside the city limits of Cherryvale.

4-108. PAYMENT. Municipal water and sewer system billings shall be mailed on or before the 1st day of each month for the previous month's service. Such bill shall be due and payable at the office of City Clerk and must be paid in full by the 10th day of each month. Failure to make payment in full before the 11th day of the month shall result in the mailing of an account delinquency and service discontinuation notice. After said due date has passed a penalty of ten percent (10%) of the unpaid balance shall be added to the original amount of said bill. All checks for payment to the City for such services which are rejected or returned due to insufficient funds in consumer's checking account may be subject to a Thirty Dollar (\$30.00) Returned Check Fee, per the procedures outlined in Resolution No. 07-51. If said fee is not paid as provided, consumer's water service shall be discontinued as provided in Section 4-109.

4-109. DISCONNECTION. If said bill remains unpaid on the 21st day of the month, after said due date, water and sewer service may be discontinued and disconnected at the discretion of the city, provided that before any such service shall be discontinued for failure to pay said service charge, the user so defaulting in the payment of the service charge shall be given five (5) calendar days' notice of the account delinquency and service discontinuation notice.

4-110. APPEAL. If within said five (5) calendar days period, the user receiving such notice of intention to discontinue its water and sewer service, shall file with the City Administrator, a written notice stating that the user believes that there is a reasonable basis to dispute the assessment of said service charge. If the City Administrator finds the complaint of the aggrieved party is just, said Administrator may make such adjustment of said service charge as he/she deems equitable and just in premises. If the Administrator deems the complaint of the aggrieved party is without merit, then at the next regular meeting of the Governing Body after the receipt of said written notice, said aggrieved party may appear and present the grievance. If at said meeting the Governing Body finds that the complaint of the aggrieved party is just, said Governing Body may make such adjustment of said service charge as it deems equitable and just in the premises. If the Governing Body at said meeting deems the complaint of the aggrieved party is without merit, it may affirm the service charge of which said aggrieved party complained, and the finding of the Governing Body shall be final and binding upon all parties concerned.

4-111. UNAUTHORIZED USE OF UTILITY SERVICES. It shall be unlawful for any person, firm or corporation to reconnect a water or sewer service or system supply to any service line, or out of any building place or premises, or directly or indirectly cause the water or sewer supply to be reconnected after same has been disconnected by the Director of Public Works or his assistants, or by the direction of the City Administrator or his authorized agents or by order of the Governing Body of the City of Cherryvale.

4-112. RECONNECTION. In the event water or sewer service shall be discontinued under the authority of this article, said water or sewer service shall not be restored until said delinquent account and a reconnection fee in the amount of twenty dollars (\$20.00) has been paid by the user whose water or sewer service has been discontinued. Reconnection of water or sewer service on weekends, city holidays and between the hours of 4:00 p.m. and 7:00 a.m. on weekdays, shall be subject to an additional fee of twenty-five dollars (\$25.00) for reconnection of services outside of normal business hours.

4-113. COLLECTION OF DELINQUENT ACCOUNTS. In the event any person shall neglect, fail, or refuse to pay following notice of a minimum of three (3) delinquent notices per Section 4-108, the bill may be turned over to outside collection, including the State of Kansas Set Off Program. The unpaid balance turned over to the State of Kansas Set Off Program, shall be subject to a fee of twenty percent (20%) of the total of the delinquent amount. This administrative charge shall be applied prior to referral for collection.

4-114. PENALTY. Any person violating any of the provisions of this Chapter shall be guilty of a class C misdemeanor or to the furthest extent of applicable laws.

ARTICLE 2. WATER UTILITY.

4-201. FURNISH WATER TO CONSUMER. Water will be supplied to each building, place or premises of consumer only after such owner of said premises or his authorized agent has complied with the requirements of this article, as deemed applicable by the City Administrator or his authorized agents. All plumbers, or other persons, are strictly prohibited from turning water from the municipal water system into any service line by the use of valves, meters or any equipment, which is the sole property of the City of Cherryvale without the permission of the City Administrator or his authorized agents.

4-202. METER BASIS AND CONNECTION. The municipal water system of the City shall be operated on a meter basis and the Director of Public Works shall install water meters on the premises of all patrons of the water system of the City, and all expenses incident thereto shall be borne by the City, unless otherwise specifically provided by this Section. Whenever a consumer desires a larger or different type water meter be installed at consumer's building, place or premises, other than the standard 5/8" water meter customarily installed, such consumer shall, in addition to the Service Account initiation Fees specified in 4-104, pay to the City Clerk a sum equal to the difference between the cost of a standard 5/8" water meter and the cost of the water meter of the size and type desired, plus the actual expense of installing same.

4-203. OWNERSHIP OF WATER METERS. Water meters installed pursuant to Section 4-202 shall be at all times and remain the property of the City and it shall be unlawful for any person, firm or corporation in any manner whatsoever to handle tamper with, molest, damage, or interfere with any meter after the same shall be set in or installed on the building, place or promise of any consumer, except that each consumer shall be responsible for any accidental or willful damage to the water meter, set in or installed on the building, place or premises or its connections, meter box or cover, whether by his own acts or those of others not in the employ of the municipal water system. In the event of damage to such water meter, connections, meter box or cover, the consumer shall promptly notify the City Clerk or Public Works personnel and they shall arrange for the necessary repairs or replacements and charge the expense of same to such consumer.

4-204. WATER MAIN ACCESS FEE. No connection of a service line serving a property not previously served by the water system of the City shall be made as heretofore provided by ordinance, without the person, firm or corporation desiring to make such initial connection having first paid to the City Clerk an initial Water Main Access Fee. Fee for such service shall be as follows:

- a.) Within City: Two Hundred Fifty Dollars (\$250.00) for each individual service line so connected.
- b.) Outside City: Seven Hundred Fifty (\$750.00) for each individual water meter so connected.

No connection of a privately owned service line shall be made to a City owned water main or service line at or outside the City limits until the person, firm or corporation desiring to make such initial connection has accomplished the following requirements:

1. Presents a formal written request for connection stating therein how the water will be used;

2. State in the written request the names of all consumers that will make use of the water from the requested connection and service line;
3. State in the written request how and where the applicant intends to make connection with the City owned water main or service line, furnishing a list of materials and specifications of installation to be utilized in making said connection to the City owned water main or service line.
4. No connection pursuant to this section shall be made until after the Governing Body of Cherryvale has determined that there would be adequate water for all inhabitants within the City and those presently connected to the waterworks system, and that the requested connection will not affect service to such existing consumers.
5. All connections made under this section shall be made pursuant to contract, drafted by the City Attorney, between the City of Cherryvale and the consumer. All rights of the consumer to City water shall be determined by said written contract.
6. No consumer shall be permitted to connect users or consumers to a water connection granted by the City, except that said other user or consumer has previously complied with all requirements of Section 4-204.

4-205. CONTRACT WITH CONSUMERS: VIOLATIONS. The rules, regulations and conditions contained in this article with reference to supplying water to patrons or consumers desiring water from the waterworks system and the rates and fees herein named shall all be considered a part of the contract with the person, firm or corporation now supplied or that may hereafter be supplied with water by and through the municipal water system, and such person, firm or corporation by taking water shall be considered and held to consent to be bound thereby. When any of the rules, regulations and conditions of this article are violated, or any other rules, regulations or conditions hereafter adopted by the City, the water shall be discontinued and the water meter removed or water service locked-out from the building, place or premises of such violation and shall not be returned to service except by order of the City Administrator or his authorized representative and on payment of expenses of discontinuing or returning service to said building, place or premises. Prior to any termination of water service, the consumer shall be entitled to prior notice and granted an opportunity to be heard concerning the proposed action, all pursuant to Section 4-225 of this Code.

4-206. DISCONTINUANCE OF WATER SERVICE.

(a) The City may discontinue or refuse water service to any customer, without notice or hearing for any of the following reasons:

- (1) When the customer so requests;
- (2) When it is determined by an employee of the City Public Works Department, Fire Department, Police Department, or Building Inspector that the continuance of water service constitutes a dangerous condition presenting a likely immediate threat to health or safety of persons or to property on or near the customer's premises.

- (3) When the customer refuses to grant employees of the City's Public Works Department access to equipment installed upon the premises of the customer for the purpose of inspection, meter reading, maintenance or replacement;
- (4) When the customer violates any rule, regulation or ordinance of the City pertaining to water service, which violation adversely affects the safety of the customer or other persons, or the integrity of the City's water service's delivery system; or
- (5) When the customer attempts, causes or permits unauthorized interference diversion, theft, tampering, damage or use of water service or the water service's delivery system situated or delivered on or about the customer's premises.

(b) The City may discontinue or refuse water service to any customer, following compliance with the notice and hearing requirements of Section 4-109 & 4-110 of this ordinance, for any of the following reasons:

- (1) Non-payment of water bills and charges as provided in Section 4-109 of this ordinance; or
- (2) When the customer misrepresents his or her identity or otherwise intentionally provides false information for the purpose of obtaining water service from the City.

4-207. UNAUTHORIZED WATER CONNECTIONS. It shall be unlawful for any person, firm or corporation, not having a license or permit from the city for the withdrawal of water from any of the hydrants, mains, laterals or service pipe, within or without the city, to withdraw or cause to be withdrawn or to use any water from such hydrants, mains, laterals or service pipe of the city.

4-208. INSPECTION OF WATER SYSTEM CONNECTIONS.

(a) It shall be the duty of all persons making connection with the municipal water system of the City to present their permit to the City Administrator or his authorized agents and allow the Director of Public Works ample opportunity to inspect such connections before any part thereof is covered.

(b) After a careful inspection has been completed, the Superintendent shall forthwith endorse his approval or disapproval on such permit and the person to whom such permit was issued for such connection shall make a report of his work on the same, sign the same and submit it to the City Administrator or his authorized agent in five (5) days from the date of such inspection.

(c) Every person supplied with water through the municipal water system of the City shall permit the Director of Public Works, or his aides or assistants, at any and all reasonable times, to enter upon or into any building, place or premises or buildings for the purpose of examining the water meter, pipes, service lines or fixtures or for investigating the manner in which said water is used or consumed.

4-209. SERVICE LINE MAINTENANCE AND REPAIR. All persons, firms or corporations supplied with water through the municipal water system shall keep their own service lines, valves and apparatus in good repair, and protect said service lines, valves and apparatus from freezing at water consumer's own risk and expense and shall prevent all unnecessary waste of water; and it is expressly stipulated by the City and the consumer or any person, firm or corporation that no claim shall be made against the City by reason of breaking of the service lines or from any cause by reason of the City failing to supply water, or for any damage arising out of or from discontinuing water service to any building, place or premises for the purpose of repairing water mains or service lines, making connections or repairs, or for any other cause or purpose whatsoever; the right is hereby reserved by the City to discontinue water service or supply at any time. Prior to any termination of water service, the consumer shall be entitled to prior notice and be granted an opportunity to be heard concerning the proposed action, all pursuant to Section 4-110 of this Code.

4-210. EXCAVATION.

(a) **LICENSE; BOND.** Within the city limits of Cherryvale, Kansas, no person, other than authorized city employees, or employees of city franchisees, shall, dig or excavate any hole, ditch, trench or tunnel in or under any street, alley, sidewalk, park or other public property or public easement, through private property without first having secured an excavation license from the City Clerk. At the time the excavation license is applied for, the licensee shall deliver a good and sufficient surety bond in the amount of (\$5,000.00) in favor of the City of Cherryvale conditioned upon properly excavating and restoring the excavated area to its condition prior to the excavation. The cost of obtaining an excavation license shall be \$15.00. An excavation license shall be good for one calendar year from date of issue with the bond to be effective for this same period of time.

(b) **ONE CALL SYSTEM.** All excavation licensees shall perform the duties set forth in K.S.A. 66-1801 through K.S.A. 66-1814 and amendments thereto. Those duties include the requirement to place a telephone call to 1-800-DIG SAFE at least two days prior to the excavation except for emergency excavations. An emergency means any condition constituting a clear and present danger to life, health or property, or a customer service outage.

(c) **ONE CALL TO CITY.** When an excavator makes the call to 1-800-DIG-SAFE, the excavator shall call City Hall to report that excavation is planned so the City will have actual notice.

(d) **BARRICADES.** All excavators shall enclose all excavations with sufficient barricades and danger signs at all times and shall maintain sufficient warning lights or flares at nighttime. The excavation licensee shall take all necessary precautions to guard the public against all accidents from the beginning of the work to the completion of the same.

(e) **SAME; UNLAWFUL ACTS.** It shall be unlawful for any person, except those having authority from the city or any officer thereof to throw down, interfere with or remove any barriers, barricades, or lights placed in any street to guard and warn the traveling public of any construction work thereon or adjacent thereto.

(f) **RESTORATION; CUTTING CURBS; PAVEMENT.**

- (1) No person shall cut any curb, gutter, pavement, blacktop, sidewalk or excavate any street, alley or other public grounds of the city for any purpose without first obtaining a permit authorizing the same from the city clerk.
- (2) Once the work for which the excavation was made has been completed the city shall restore the pavement, blacktop, sidewalk or other surfacing at the expense of the person from whom the excavation was made.
- (3) In lieu of the city replacing pavement, it may elect to authorize utility companies or contractors to resurface streets or sidewalks with like materials, subject to approval of the street superintendent.
- (4) All excavations shall be properly filled to ensure that no hazard exists.
- (5) The Director of Public Works may require an excavator to return to the site of the excavation within six months of the excavation in order to fill settled areas. If an excavation licensee does not comply with work requested by the Director of Public Works demand shall be made upon the surety to pay for the cost of the needed repairs.

(g) **PENALTIES.** Any person who shall engage in excavating within the City without having first secured an excavation license as required in this ordinance shall be deemed guilty of a Class C misdemeanor. Any person who shall violate Section (e) of this ordinance shall also be deemed guilty of a Class C misdemeanor. Each and every day shall be deemed to be a separate violation.

4-211. TAPPING; MAINS, DISTRIBUTING LINES. No person, except the Director of Public Works or an authorized representative employed by the city, will be permitted under any circumstances to tap the mains or distributing pipes, or to insert stopcocks, or ferrules, and pipes must not in any case be tapped nearer than fifteen (15) inches of either end of the pipe, nor nearer than four (4) feet from any tap, except in making a cluster of taps for large pipes. All stopboxes on residence streets shall be one (1) foot inside the curblin and on business streets just inside of the curblin.

4-212. CONNECTION; WATER SYSTEM; PLUMBER'S PERMIT; BOND. Any plumber wishing to do business in connection with the waterworks shall first make application to the Director of Public Works and such application shall be in writing, giving his name and the names of each of his firm, if any, and the place of doing business, asking to be permitted to do plumbing in connection with the water system, stating his willingness to be governed in all respects by the rules and regulations now or hereafter to be adopted by the city Council; any plumber wishing to do business in connection with the water system shall give a bond in favor of the city to be approved by the Council in the sum of one thousand dollars (\$5,000.00); Provided, that he will indemnify and keep harmless the city and the Director of Public Works from all liabilities for any accident or damages arising from neglect or any unskillfulness in doing the work, or any unfaithful or defective work done, and that he will also restore the streets, alleys, sidewalks and pavement over all pipes he may lay and fill all excavations made by him, so as to leave the street, sidewalk and pavement in as good condition as he found it, and to keep the same in good order to the satisfaction of the Director of Public Works for a period of thirty (30) days thereafter. All connections shall be made direct from the water mains and no consumer at any one location shall be permitted more than one direct connection.

4-213. FILLING DITCHES, ETC. The builder of any connection with any main or lateral, shall do the backfilling in the streets and alleys in such manner as the Director of Public Works shall direct, and within forty-eight (48) hours after the opening of the ditch in any street or alley, such street or alley shall be put in as good condition as previous to such digging and to the satisfaction of the superintendent of streets. Every sewer builder shall close any opening he may make in any public street or alley with sufficient barriers and maintain danger signals during the night and be held liable for damage to person or property resulting from negligence in maintaining such barriers and signals.

4-214. POLLUTION OF WATER SUPPLY. It shall be unlawful for any person or persons to place near or in the Verdigris River or into any of its tributaries from which the city procures its supply of water, a carcass of any dead animal or offal or filth of any kind or to pollute the water in any manner, of the Verdigris River or its tributaries, at any point thereon or place therein within a distance of five (5) miles from the intake of the river waterworks, of the city or to keep or maintain any hog pens or feed lots or slaughterhouse, or deposit any carcass of offal or any decayed animal or vegetable matter upon or near the said stream or its tributaries that the drainage may or might pollute the water of the Verdigris River, or to swim or bathe in the Verdigris River within one (1) mile above or one-half (1/2) mile below the said intake.

Cross Reference: K.S.A. 14-307, five mile rule.

4-215. RESERVOIRS; POLLUTING OR DISTURBING. It shall be unlawful for any person or persons to cast stones, sticks or any other substance whatsoever into any reservoir or settling basin of the river waterworks system of the city, said reservoir being located on the hill west of the city or elsewhere, or to bathe or swim or to pollute the water therein or to place any dead animal or thing therein; or to climb, ascend or mount the wall thereof or to injure or deface the same, or to climb upon the fence enclosing the same.

4-216. UNLAWFUL TO UNCOVER PIPES. It shall be unlawful for any person to excavate in any street, avenue, alley or lane, within two (2) feet of any water main or pipe when the ground is frozen, or dig up, or uncover any water pipes of the city so as to expose the same to frost, except the same may be done under the direction of the Superintendent of the water and sewer department.

ARTICLE 3. WATER RATES.

4-301. WATER SERVICE CHARGES.

(a) Water consumers shall be charged for water and services according to the following schedule of rates and fees:

- (1) Each consumer shall be charged a base service charge of Eight Dollars (\$8.00) per month; and
- (2) Each consumer receiving water inside the City limits shall be charged at a rate of Eight Dollars (\$8.00) per 1,000 gallons of water consumed;
- (3) Each consumer receiving water service outside of the City limits shall be charged at a rate of Ten Dollars & Twenty-five Cents (\$10.25) per 1,000 gallons of water consumed.

(b) The charge for bulk water shall not exceed the rate of Ten Dollars (\$10.00) per 1,000 gallons.

4-302. REVIEW.

The City Administrator or his or her designee shall continue to perform a rate review on a yearly basis and present his or her findings to the Governing Body at the last Council Meeting in November.

4-303. LEAK ADJUSTMENT

Water utility customers with a minimum of six months of continuous, current service with the City of Cherryvale may receive one water consumption leak adjustment per year. The year will be counted from the date of the last water consumption leak adjustment received. Once a leak has been identified, the customer is expected to repair the leak in a timely manner.

1. The leak adjustment shall be calculated as follows:
 - a. Calculate the average water consumption for the past 6 months, excluding the month with the leak.
 - b. Calculate the amount of water consumption in excess of the average consumption to determine the amount of water that will be billed at the adjusted rate. Use the amount of the meter reading for the period with leak and subtract the previous month's meter reading to determine the amount of water that ran through the meter during the affected month. Then subtract the average consumption from the affected month's consumption.
 - c. The amount of water consumption in excess of the average consumption will be charged per 1,000 gallons at the rate the City is charged per 1,000 gallons by Public Wholesale Water Supply District for water.

4-304. RURAL LEAK ADJUSTMENT

Rural water lines with a minimum of six months of continuous, current service with the City of Cherryvale may receive one water consumption leak adjustment per year. The year will be counted from the date of the last water consumption leak adjustment received. Once a leak has been identified, the customer is expected to repair the leak in a timely manner. The line would need to pay a \$10 administrative fee for each customer on the line for the costs involved in performing the calculations.

1. The leak adjustment shall be calculated as follows:
 - a. Calculate the average water consumption for the entire line for the past 6 months, excluding the month with the leak.
 - b. Calculate the amount of water consumption in excess of the average consumption to determine the amount of water that will be billed at the adjusted rate. Use the amount of the meter reading for the period with leak and subtract the previous month's meter reading to determine the amount of water that ran through the meter during the affected month. Then subtract the average consumption from the affected month's consumption.
 - c. The amount of water consumption in excess of the average consumption will be charged per 1,000 gallons at the rate the City is charged per 1,000 gallons by Public Wholesale Water Supply District for water.

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ARTICLE 4. WATER CONSERVATION.

4-401. WATER DROUGHT/EMERGENCY.

(a) Purpose. The purpose of this ordinance is to provide for the declaration of a water supply watch, warning or emergency and the implementation of voluntary and mandatory water conservation measures throughout the city in the event such a watch, warning or emergency is declared.

(b) Definitions:

(1) "*Water*," as the term is used in this ordinance, shall mean water available to the City of Cherryvale for treatment by virtue of its water rights or any treated

water introduced by the City into its water distribution system, including water offered for sale at any coin-operated site.

(2) "*Customer*," as the term is used in Ws ordinance, shall mean the customer of record using water for any purpose from the City's water distribution system and for which either a regular charge is made or, in the case of coin sales, a cash charge is made at the site of delivery.

(3) "*Waste of water*," as the term is used in this ordinance, includes, but is not limited to: (a) permitting water to escape down a gutter, ditch, or other surface drain; or (b) failure to repair a controllable leak of water due to defective plumbing.

(4) The following classes of uses of water are established:

Class 1:

Water used for outdoor watering, either public or private, for gardens, lawns, trees, shrubs, plants, parks, golf courses, playing fields, swimming pools or other recreational areas; or the washing of motor vehicles, boats, trailers, or the exterior of any building or structure.

Class 2:

Water used for any commercial or industrial, including agricultural, purposes: except water actually necessary to maintain the health and personal hygiene of bona fide employees while such employees are engaged in the performance of their duties at their place of employment.

Class 3:

Domestic usage, other than that which would be included in either classes 1 or 2.

Class 4:

Water necessary only to sustain human life and the lives of domestic pets and maintain standards of hygiene and sanitation.

(c) Declaration of Water Watch. Whenever the governing body of the City finds the conditions indicate that the probability of a drought or some other condition causing a major water supply shortage is rising, it shall be empowered to declare, by resolution, that a water watch exists and that it shall take steps to be deemed to continue until it is declared by resolution of governing body to have ended. The resolutions declaring the existence and end of a water watch shall be effective upon their publication in the official city newspaper.

(d) Declaration of Water Warning. Whenever the governing body of the City finds that drought conditions or some other condition causing a major water supply shortage are present and supplies are starting to decline, it shall be empowered to declare by resolution that a water warning exists and that it will recommend restrictions on nonessential uses during the period of the warning. Such a warning shall be deemed to continue until it is declared by resolution of the

governing body to have ended. The resolutions declaring the beginning and ending of the water shall be effective upon their publication in the official city newspaper.

(e) Declaration of Water Emergency. Whenever the governing body of the City finds that an emergency exists by reason of a shortage of water supply needed for essential uses, it shall be empowered to declare by resolution that a water supply emergency exists and that it will impose mandatory restrictions on water use during the period of the emergency. Such an emergency shall be deemed to continue until it is declared by resolution of the governing body to have ended. The resolutions declaring the existence and end of a water supply emergency shall be effective upon their publication in the official city newspaper.

(f) Voluntary Conservation Measures. Upon the declaration of a water watch or water warning as provided in Sections (c) and (d), the mayor (or the city Administrator) is authorized to call on all water consumers to employ voluntary water conservation measures to limit or eliminate nonessential water uses including, but not limited to, limitations on the following uses:

- (1) Sprinkling of water on lawns, shrubs or trees (including golf courses);
- (2) Washing of automobiles;
- (3) Use of water in swimming pools, fountains and evaporative air conditioning systems; or
- (4) Waste of water.

(g) Mandatory Conservation Measures. Upon the declaration of a water supply emergency as provided in Section (e), the mayor (or the city Administrator) is also authorized to implement certain mandatory water conservation measures, including, but not limited to, the following:

- (1) Suspension of new connections to the City's water distribution system, except connections of fire hydrants and those made pursuant to agreements entered into by the City prior to the effective date of the declaration of the emergency;
- (2) Restrictions on the uses of water in one or more classes of water use, wholly or in part;
- (3) Restrictions on the sales of water at coin-operated facilities or sites;
- (4) The imposition of water rationing based on any reasonable formula including, but not limited to, the percentage of normal use and per capita or per consumer restrictions; or
- (5) Complete or partial bans on the waste of water; and (f) Any combination of the foregoing measures.

(h) Emergency Water Rates. Upon the declaration of a water supply emergency as provided in Section (e), the governing body of the City shall have the power to adopt emergency water rates by ordinance designed to conserve water supplies. Such emergency rates may provide for, but are not limited to:

- (1) higher charges for increasing usage per unit of use (increasing block rates);
- (2) uniform charges for water usage per unit of use (uniform unit rate); or
- (3) extra charges in excess of a specified level of water use (excess demand surcharge).

(i) Regulations. During the effective period of any water supply emergency as provided for in Section (e), the mayor (or the City Administrator or Director of Public Works) is empowered to promulgate such regulations as may be necessary to carry out the provisions of this ordinance, any water supply emergency resolution, or emergency water rate ordinance. Such regulations shall be subject to the approval of the governing body at its next regular or special meeting.

(j) Violations, Disconnections and Penalties.

(1) If the mayor, City Administrator, Director of Public Works, or other city official or officials charged with implementation and enforcement of this ordinance or a water supply emergency resolution learn of any violation of any water use restrictions imposed pursuant to Sections (g) or (i) of this ordinance, a written notice of the violation shall be affixed to the property where the violation occurred and the customer of record and any other person known to the City who is responsible for the violation or its correction shall be provided with either actual or mailed notice. Said notice shall describe the violation and order that it be corrected, cured or abated immediately or within such specified time as the City determines is reasonable under the circumstances. If the order is not complied with, the City may terminate water service to the customer subject to the following procedures:

(a) The City shall give the customer notice by mail or actual notice that water service will be discontinued within a specified time due to the violation and that the customer will have the opportunity to appeal the termination by requesting a hearing scheduled before the City governing body or a city official designated as a hearing officer by the governing body;

(b) If such a hearing is requested by the customer charged with the violation, he or she shall be given a full opportunity to be heard before termination is ordered; and

(c) The governing body or hearing officer shall make findings of fact and order whether service should continue or be terminated

(2) A fee of \$50 shall be paid for the reconnection of any water service terminated pursuant to subsection (a). In the event of subsequent violations, the reconnection fee shall be \$200 for the second reconnection and \$300 for any additional reconnections.

(3) Violations of this ordinance shall be a municipal offense and may be prosecuted in Municipal Court. Any person so charged and found guilty in Municipal Court of violating the provisions of this ordinance shall be guilty of a municipal offense. Each day's violation shall constitute a separate offense. The penalty for an initial violation shall be a mandatory fine of \$100. In addition, such customer may be required by the Court to serve a definite term of confinement in

the city or county jail which shall be fixed by the Court and which shall not exceed 30 days.

(k) Emergency Termination. Nothing in this ordinance shall limit the ability of any properly authorized city official from terminating the supply of water to any or all customers upon the determination of such city official that emergency termination of water service is required to protect the health and safety of the public.

(l) Severability. If any provision of this ordinance is declared unconstitutional, or the application thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and its applicability to other persons and circumstances shall not be affected thereby.

ARTICLE 5. SEWER UTILITY.

4-501. DEFINITIONS. Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:

(a) "BOD" (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20' C, ex- pressed in milligrams per liter.

(b) "Building Drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

(c) "Building Sewer" shall mean the extension from the building drain to the public sewer or other place of disposal.

(d) "City" shall mean the City of Cherryvale, Montgomery County, Kansas.

(e) "Combined Sewer" shall mean a sewer receiving both surface runoff and sewage.

(f) "Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

(g) "Industrial Wastes" shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

(h) "Natural Outlet" shall mean any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

(i) "Person" shall mean any individual, firm, company, association, society, corporation, or group.

(j) "Properly Shredded Garbage", shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one half (1/2) inch (1.27 centimeters) in any dimension.

(k) "Public Sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

(l) "Sanitary Sewer" shall mean a sewer which carries sewage and to which storm, surface and groundwaters are not intentionally admitted.

(m) "Sewage" shall mean a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface and -storm waters as may be present.

(n) "Sewage Treatment Plant" shall mean any arrangement of devices and structures used for treating sewage.

(o) "Sewage Works" shall mean all facilities for collecting, pumping, treating and disposing of sewage.

(p) "Sewer" shall mean a pipe or conduit for carrying sewage. r. "Shall" is mandatory; "may" is permissive.

(q) "Sludge" shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-our (24) hour concentration or flows during normal operation.

(r) "Storm Drain" (sometimes termed "storm sewer") shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

(s) "Director" shall mean the Director of Public Works Department of the City of Cherryvale, or his authorized deputy, agent, or representative.

(t) "Suspended Solids" shall mean solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

(u) "Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently.

Cross References: K.S.A. 12-631n; K.S.A. 14-561; K.S.A. 12-3101, et seq.

4-502. REQUIRED CONNECTION.

The owner of any house, building, or property used for human occupancy, employment, recreation, or other purposes, situated within the city and abutting on any street, alley, or right-of-way in which there is now located or may be located in the future, a sanitary sewer of the city,

is hereby required to install, at the owner's expense, suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer system in accordance with the provisions of this article within ninety (90) days after date of official notice to do so, provided that said public sewer system is within one hundred (100) feet (30.5 meters) of the property line.

Cross References: K.S.A. 12-631

4-503. UNLAWFUL WASTE DISPOSAL METHODS.

(a) It is unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the city, or in any area under the jurisdiction of the city, any human or animal excrement, garbage, or other objectionable waste.

(b) It is unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of the city, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this article.

(c) It shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

Cross References: K.S.A. 12-3105. K.S.A. 65-171a, et seq., K.S.A. 65-171g,

4-504. CONNECTION PERMIT. No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Director of Public Works or an authorized representative.

4.505. APPLICATION. The owner or an agent shall make the permit application on a form furnished by the city. The permit application shall be supplemented with any plans, specifications, or other information considered pertinent in the judgment of the Director of Public Works or an authorized representative. A permit and inspection fee shall be as follows:

a.) Within City: Two Hundred Fifty Dollars (\$250.00) for each individual service connected.

b.) Outside City: Seven Hundred Fifty Dollars (\$750.00) for each individual service connected.

4-506. COSTS. All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

4-507. SEPARATE CONNECTION. A separate and independent building sewer shall be provided for every building; except where one (1) building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear

building through an adjoining alley, courtyard, or driveway, the building sewer from the front building may be extended to the rear building, and the whole considered as one (1) building sewer.

Cross References: K.S.A. 65-171d.

- 4-508. EXISTING CONNECTION.** Existing building sewers may be used in connection with new buildings only when they are found, on examination and test by the Director of Public Works or an authorized representative, to meet all requirements of this article.
- 4-509. CONSTRUCTION.** The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city. In the absence of code provisions or in application thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.
- 4-510. ELEVATION.** Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.
- 4-511. INSTALLATION.** The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications of the Q A.S.T.M. and the S.P.C.F. Manual of Practice No. 9. All such connections shall be made gas tight and water tight. Any deviation from the prescribed procedures and materials must be approved by the Director of Public Works or an authorized representative before installation.

Cross References: K.S.A. 65-171h.

- 4-512. INSPECTION.** The applicant for the building sewer permit shall notify the Director of Public Works or an authorized representative when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Director of Public Works or an authorized representative within forty-eight (48) hours of the receipt of notice.

Cross References: K.S.A. 65-170b.

- 4-513. EXCAVATION.** All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, rights-of-way, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

4-514. PROHIBITED CONNECTIONS. No person shall make or maintain a connection of roof downspouts, exterior or interior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

Cross References: K.S.A. 65-171d

ARTICLE 6. SEWER DISCHARGE CRITERIA

4-601. PROHIBITED DISCHARGE. No person shall discharge or cause to be discharged to any sanitary sewer any of the following:

- (a) Any storm water, surface water, ground water, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters.
- (b) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas;
- (c) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment facility;

(c) Any waters or wastes having a pH lower than 5.0 or higher than 10.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works;

(d) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the property operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, un-ground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders;

Cross References: K.S.A. 12-3105; K.S.A. 65-171d; K.S.A. 65-171j.

4-602. REGULATED DISCHARGE. The discharge of the following substances, materials, waters, or wastes may be regulated, restricted, or prohibited if it appears likely in the opinion of the Director of Public Works that such wastes can harm either the sewers, sewage treatment process or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the Director of Public Works will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors.

(a) Any liquid or vapor having a temperature higher than 150, F (65, C).

(b) Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between 32, and 150°F (0° and 65°C).

(c) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Director of Public Works.

(d) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.

(e) Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Director of Public Works, or an authorized representative for such materials, or pretreatment requirements established by state, federal, or other public agencies of jurisdiction for such discharge.

(f) Any waters or wastes containing phenols or other taste- or odor- producing substances, in such concentrations exceeding limits which may be established by the Director of Public Works or an authorized representative for such materials as necessary,

after treatment of the composite sewage, to meet the requirements of state, federal, or other public agencies of jurisdiction for such discharge.

(g) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Director of Public Works or an authorized representative in compliance with applicable state or federal regulations.

(h) Materials which exert or cause:

(1) Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride or sodium sulfate).

(2) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).

(3) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

(i) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to, such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(j) (e) Any waters or wastes having (1) a 5-day BOD greater than 300 parts per million by weight, or (2) containing more than 350 parts per million by weight of suspended solids, or (3) having an average daily flow greater than 2 percent of the average sewage flow of the city, shall be subject to the review of the superintendent. Where necessary in the opinion of the superintendent, the owner shall provide, at his expense, such preliminary treatment as may be necessary to (1) reduce the biochemical oxygen demand to 300 parts per million by weight, or (2) reduce the suspended solids to 350 parts per million by weight, or (3) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Director of Public Works, and no construction of such facilities shall be commenced until said approvals are obtained in writing.

Cross References: K.S.A. 12-3105; K.S.A. 65-171d; K.S.A. 65-171j.

4-603. PERMITTED ACTIONS. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 4-602, and which in the judgment of the Director of Public Works may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life to constitute a public nuisance, the Director of Public Works or an authorized representative may:

(1) Reject the wastes;

- (2) Require pretreatment to an acceptable condition for discharge to the public sewer system;
- (3) Require control over the quantities and rates of discharge; and/or
- (4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of this article.

If the Director of Public Works or an authorized representative permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Director of Public Works or an authorized representative, and subject to the requirements of all applicable codes, ordinances and laws.

Cross References: K.S.A. 12-3105; K.S.A. 65-171d; K.S.A. 65-171j.

4-604. INTERCEPTORS. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Director of Public Works or an authorized representative, such are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

4-605. MAINTENANCE OF FACILITIES. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

4-606. ACCESS. When required by the Director of Public Works, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Director of Public Works. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

Cross References: K.S.A. 12-3105. K.S.A. 65-170b.

4-607. TESTING. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this article shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a 24-hour composite of all outfalls of a

premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pH's are determined from periodic grab samples.)

Cross References: K.S.A. 12-3105; K.S.A. 65-170b.

4-608. RIGHT OF ENTRY. The Director of Public Works or an authorized representative of the city bearing proper credentials and identification shall be permitted to enter all private properties and or duly negotiated easements, for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, maintenance, and testing in accordance with the provisions of this article.

4-610 LIABILITY. While performing the necessary work on private properties referred to in this section, the Director of Public Works or an authorized representative of the city shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the city employees and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required by this article.

Cross References: K.S.A. 65-170b.

4-611. STORM WATER. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the Director of Public Works or authorized representative. Such flows are also subject to state and federal regulations.

4-612. TAMPERING WITH SEWAGE WORKS. No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is part of the sewage works.

4-613. VIOLATIONS; NOTICE TO CORRECT; PENALTY; CIVIL LIABILITY.

(a) Any person found to be violating any provision of this article except Section 4-612 shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. Notice shall comply with Sections 2-104 and 2-105 of this Code. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(b) Any person who shall continue any violation beyond the time limit provided for in this section shall be guilty of a class B misdemeanor. Each 24-hour period in which any such violation shall continue shall be deemed a separate offense.

(c) Any person violating any of the provisions of this article shall become liable to the city for any expense, loss, or damage occasioned the city by reason of such violation.

Cross References: K.S.A. 65-170d, K.S.A. 65-171f.

4-614. SAVINGS CLAUSE. The invalidity of any section, clause, or provision of this article shall not affect the validity of any other part of this article, which can be given effect without such invalid part or parts.

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ARTICLE 7. SEWER RATES AND COST RECOVERY

4-701. RATE BASIS. The monthly rates required and which shall be charged and collected by the City of Cherryvale for sewage service furnished or available by the City's sanitary sewage system shall be based upon the quantity of water used and shall be measured by the water meter or meters installed on the premises served, or for which services are available, unless suitable wastewater measuring and recording equipment is furnished and maintained by the person receiving service. The method of determining use will be as follows:

(a) The average monthly water usage for each customer shall be calculated from the customer's three (3) normal billing cycles occurring during the monthly periods from October to November, November to December and December to January of each year. The basis so established shall be used in rendering sewage service bills beginning the first billing date following the establishment of the basis, payable March 1 and thereafter, and shall be used for one year. A new basis shall be established each year from the billing cycles as above provided.

(b) The basis for those customers not having three (3) normal billing cycles at their current service account occurring during the months of October, November, December and January from which to calculate the average monthly water usage shall be charged the base sewer rate and the rate for 1,000 gallons of usage. Such basis shall be used until the customer's own basis is established from the next three (3) normal billing cycles.

4-702. SEWER RATES. Rates for all classes of users shall be as follows:

(a) For all users or persons for whom service is available, except for those charged under sub-paragraph (b) of this section, \$7.95 per month base charge, plus \$3.38 per 1,000 gallons of water usage.

4-703. BILLING.

(a) All water meters shall be read and bills for both water and sewage service shall be rendered monthly as such services accrue. The office of the City Clerk shall calculate the amount of each bill for water service for the preceding period and shall add thereto the amount of such customer's bills for sewage service computed as hereinbefore specified and shall render to each customer a single bill for such water and sewage service.

(b) For persons liable for payment of a sewer service charge who obtained any water from any source other than the City's water system, such persons shall furnish and maintain suitable wastewater measuring and recording equipment for calculations of the monthly sewage service charge computed as aforesaid.

(c) As used herein, the term "monthly" shall mean a preceding period of approximately one month beginning and ending as near the same day of the month as is practicable for the water meters of the City to be read. In reading said meters and in calculating the water bills and sewage service charges, aforesaid, the monthly period shall extend from the time such meter was read for the preceding month to the date the same is read for a current month.

4-704. RATE ADJUSTMENT.

(a) Where it can be established that a customer has experienced a water leak during the period used to calculate the customer's average monthly sewer rate, the customer's sewer charge may be adjusted by using the average water consumption for the past 3 months, excluding the month with the leak.

(b) Where it can be established that a commercial or industrial customer has significantly altered their water usage since the establishment of their monthly sewer charge, the customer may request an adjustment. This adjustment may be calculated by using the average water consumption for the past 6 months. The adjusted sewer charge will be effective until a new basis is established per Section 4-701 (a).

4-705. UNUSUAL SEWAGE SYSTEM BURDENS, RATES. Any business establishment, industry or other user discharging an unusual amount of waste or fluid into the City's sewage

system which places an unusual burden upon said system or its sewage treatment works of facilities, shall be charged such reasonable and proper amount as may be fixed from time to time by the governing body of the City, taking into account such unusual burden.

4-706. OWNERS, LANDOWNERS, LIABILITY. Owners and occupants of leased premises served by the water and sewer utilities furnished by the city are jointly liable for payment of the cost of any utilities furnished by the City to such premises, whether such water and/or sewer service is furnished upon the application and request of the owner or the lessee of the premises. The owner of any leased premises, or the owner's agent if leasing is through an agent, shall be notified of the delinquency of the occupant of the leased premises in the same manner as notice is provided to customers pursuant to Section 4-214 of this ordinance and at the same time of notice to the lessee-customer.

4-707. RATE REVIEW. Rates for all classes of users shall be reviewed at least annually to:

- (a) Maintain the proportionate distribution of operation and maintenance costs among all users and/or user classes.
- (b) Generate sufficient revenue to pay the total operation and maintenance costs necessary for the proper operation and maintenance including replacement and renovation of the sewage system,
- (c) Apply excess revenues collected from a class of users to the cost of operation attributable to that class of users for the next year and to adjust the rate accordingly,

4-708. SAVINGS CLAUSE. The invalidity of any section, clause, sentence or provision of this ordinance shall not affect the validity of any other part of this ordinance which can be given effect without such invalid part or parts.

ARTICLE 8. PRIVATE SEWER SYSTEMS

4-801. PRIVATE SYSTEMS. Where a public sanitary sewer is not available under the provisions of Section 4-502, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this article.

Cross References: K.S.A. 65-171h,

4-802. PERMIT. Before commencing with the construction of a private sewage disposal system, the owner shall first obtain authorization from the Montgomery County Department of Environmental Health & Zoning. Following this approval, the owner shall obtain a written permit signed by the City of Cherryvale Director of Public Works. The application for such permit shall be made on a form furnished by the city, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the Director or an authorized representative. A permit and inspection fee of Fifty Dollars (\$50.00) shall be paid to the City Clerk at the time the application is filed.

4-803. INSTALLATION AND INSPECTION. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Montgomery County Department of Environmental Health and Zoning and the Director of Public Works, who shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Director when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within forty-eight (48) hours of the receipt of notice by the Director or authorized representative.

4-804. REQUIREMENTS. The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the Kansas Department of Health and Environment. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than fourteen thousand five hundred twenty (14,520) square feet (1306.8 square meters). No septic tank or cesspool shall be permitted to discharge to any natural outlet.

Cross References: K.S.A. 65-171h, minimum standards.

4-805. SUBSEQUENT CONNECTION.

(a) At such time as a public sewer becomes available to a property served by a private sewage disposal system, a direct connection shall be made to the public sewer in compliance with this article, the building sewer shall be connected to said public sewer within ninety (90) days and the private sewage disposal system shall be cleaned of sludge and filled with clean bank-run gravel, locally available chat, or soil.

Cross References: K.S.A. 12-631, mandatory sewer connection.

4-806. OPERATION. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city.