

CITY OF CUNNINGHAM, KANSAS

CODE OF ORDINANCES

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§ 1-101 CODE DESIGNATED.

(a) The chapters, articles, and sections herein shall constitute and be designated as “The Code of the City of Cunningham, Kansas”, and may be so cited.

(b) The code may also be cited as the “Cunningham City Code”.
(1993 Code, § 1-101)

§ 1-102 DEFINITIONS.

For the purpose of this code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CITY. The City of Cunningham, Kansas.

CODE. The code of the City of Cunningham, Kansas.

COMPUTATION OF TIME. The time within which an act is to be done shall be computed by excluding the first and including the last day; and if the last day be a Saturday, Sunday, or legal holiday, that day shall be excluded.

COUNTY. The County of Kingman in the State of Kansas.

DELEGATION OF AUTHORITY. Whenever a provision appears requiring or authorizing the head of a department or officer of the city to do some act or perform some duty, it shall be construed to authorize such department head or officer to designate, delegate, and authorize subordinates to do the required act or perform the required duty unless the terms of the provision designate otherwise.

GENDER. Words importing the masculine gender include the feminine and neuter.

GOVERNING BODY. The Mayor and City Council of the city, or those persons appointed to fill a vacancy in the office of Mayor or the Council as provided in this code.

IN THE CITY. Includes all territory in which the city now has, or shall hereafter acquire jurisdiction for the exercise of its police powers or other regulatory powers.

JOINT AUTHORITY. All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

MONTH. A calendar month.

NUMBER. Words used in the singular include the plural, and words used in the plural include the singular.

OATH. Includes an affirmation in all cases in which, by law, an affirmation may be substituted for an **OATH** and, in such cases, the word “swear” is equivalent to the word “affirm”.

OFFICERS, DEPARTMENTS, AND THE LIKE. Officers, departments, boards, commissions, and employees referred to in this code shall mean officers, departments, boards, commissions, and employees of the city, unless the context clearly indicates otherwise.

OWNER. Applied to a building or land, shall include not only the owner of the whole, but any part owner, joint owner, tenant in common, or joint tenant of the whole or a part of such building or land.

PERSON. Includes a firm, partnership, association of persons, corporation, organization, or any other group acting as a unit, as well as an individual.

PROPERTY. Includes real, personal, and mixed property.

REAL PROPERTY. Includes lands, tenements, and hereditaments, and all rights thereto and interest therein, equitable as well as legal.

SHALL, MAY. *SHALL* is mandatory and *MAY* is permissive.

SIDEWALK. Any portion of a street between the curb line and the adjacent property line intended for the use of pedestrians.

SIGNATURE, SUBSCRIPTION. Includes a mark when the person cannot write, when his or her name is written near such mark, and is witnessed by a person who writes his or her own name as a witness.

STATE. The State of Kansas.

STREET. Includes public streets, avenues, boulevards, highways, roads, alleys, lanes, viaducts, bridges, and the approaches thereto and all other public thoroughfares in the city.

TENANT or OCCUPANT. Applied to a building or land, shall include any person holding a written or oral lease of, or who occupies the whole or a part of such building or land, whether alone or with others.

TENSES. Words used in the past or present tense include the future as well as the past and present.

WRITING or WRITTEN. May include printing, engraving, lithography, and any other mode of representing words and letters, except those cases where the written signature or the mark of any person is required by law.

YEAR. A calendar year, except where otherwise provided.
(1993 Code, § 1-102)

§ 1-103 EXISTING ORDINANCES.

The provisions appearing in this code, so far as they are in substance the same as those of ordinances existing at the time of the effective date of this code, shall be considered as continuations thereof and not as new enactments.
(1993 Code, § 1-103)

§ 1-104 EFFECT OF REPEAL.

The repeal of an ordinance shall not revive an ordinance previously repealed, nor shall such repeal affect any right that has accrued, any duty imposed, any penalty incurred, or any proceeding commenced under or by virtue of the ordinance repealed, except as shall be expressly stated therein.
(1993 Code, § 1-104)

§ 1-105 CATCHLINES OF SECTIONS.

The catchlines of the sections of this code printed in capital letters are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of any section, nor unless expressly so provided, shall they be so deemed when any section, including its catchline, is amended or reenacted.

(1993 Code, § 1-105)

§ 1-106 PARENTHETICAL AND REFERENCE MATTER.

The matter in parenthesis at the ends of sections is only for information purposes and is not a part of the code. Citations indicate only the source and the text may or may not be changed by this code. This code is a new enactment under the provisions of K.S.A. 12-3014 and 12-3015. Reference matter not in parenthesis is only for information purposes and is not a part of this code.

(1993 Code, § 1-106)

§ 1-107 AMENDMENTS; REPEAL.

Any portion of this code may be amended by specific reference to the section number as follows: "Section _____ of the code of the City of Cunningham is hereby amended to read as follows: (the new provisions shall then be set out in full). . ." A new section not heretofore existing in the code may be added as follows: "The code of the City of Cunningham is hereby amended by adding a section (or article or chapter) which reads as follows: . . .(the new provisions shall be set out in full). ." All sections, or articles, or chapters to be repealed shall be repealed by specific reference as follows: "Section (or article or chapter) _____ of the code of the City of Cunningham is hereby repealed."

(1993 Code, § 1-107)

§ 1-108 ORDINANCES.

The governing body shall have the care, management, and control of the city and its finances, and shall pass all ordinances needed for the welfare of the city. All ordinances shall be valid when a majority of all the members-elect of the City Council shall vote in favor. Where the number of favorable votes is one less than required, the Mayor shall have power to cast the deciding vote in favor of the ordinance.

(K.S.A. 12-3002) (1993 Code, § 1-108)

§ 1-109 SAME; SUBJECT AND TITLE; AMENDMENT.

No ordinance shall contain more than one subject, which shall be clearly expressed in its title; and no section or sections of an ordinance shall be amended unless the amending ordinance contains the entire section or sections as amended and the section or sections amended shall be repealed.

(1993 Code, § 1-109)

§ 1-110 SAME; PUBLICATION.

(a) No ordinance, except those appropriating money, shall be in force until published in the official city newspaper by the City Clerk. One publication of any such ordinance shall be sufficient unless additional publications are required by statute or ordinance. The publisher of the newspaper shall prefix such published ordinance by a line in brackets stating the month, day, and year of such publication.

(b) In lieu of division (a) above, the city may opt to publish a summary of an ordinance so long as:

(1) The publication is identified as a “summary” and contains notice that the complete text of the ordinance may be obtained or viewed free of charge at the office of the City Clerk;

(2) The City Attorney certifies the summary of the ordinance prior to publication to ensure that the summary is legally accurate and sufficient; and

(3) The publication contains the city’s official website address where a reproduction of the original ordinance is available for a minimum of one week following the summary publication in the newspaper.

(c) If an ordinance is subject to petition pursuant to state law, then the summary shall contain a statement that the ordinance is subject to petition.

(K.S.A. 12-3007) (1993 Code, § 1-110)

§ 1-111 SAME; ORDINANCE BOOK.

Following final passage and approval of each ordinance, the City Clerk shall enter the same in the ordinance book of the city as provided by law. Each ordinance shall have appended thereto the manner in which the ordinance was passed, the date of passage, the page of the journal containing the record of the final vote on its passage, the name of the newspaper in which published, and the date of publication.

(K.S.A. 12-3008) (1993 Code, § 1-111)

§ 1-112 RESOLUTIONS, MOTIONS.

Except where a state statute or city ordinance specifically requires otherwise, all resolutions and motions shall be passed if voted upon favorably by a majority present at a meeting of the City Council.

(1993 Code, § 1-112)

§ 1-113 CITY RECORDS.

The City Clerk or any other officer or employee having custody of city records and documents shall maintain such records and documents in accordance with K.S.A. 12-120 to 12-121 inclusive, which is

incorporated by reference herein as if set out in full and as provided in the State Open Records Act and the city policy regarding open public records.

(K.S.A. 12-120 to 12-121) (1993 Code, § 1-113)

§ 1-114 ALTERING CODE.

It shall be unlawful for any person, firm, or corporation to change or amend by additions or deletions, any part or portion of this code, or to insert or delete pages, or portions thereof, or to alter or tamper with such code in any manner whatsoever which will cause the law of the city to be misrepresented thereby. This restriction shall not apply to amendments or revisions of this code authorized by ordinance duly adopted by the governing body.

(1993 Code, § 1-114)

§ 1-115 SCOPE OF APPLICATION.

Any person convicted of doing any of the acts or things prohibited, made unlawful, or the failing to do any of the things commanded to be done, as specified and set forth in this code, shall be deemed in violation of this code and punished in accordance with § 1-116. Each day any violation of this code continues shall constitute a separate offense.

(1993 Code, § 1-115)

§ 1-116 GENERAL PENALTY.

Whenever any offense is declared by any provision of this code, absent a specific or unique punishment prescribed, the offender shall be punished in accordance with this section:

(a) A fine of not more than \$1,000;

(b) Imprisonment in jail for not more than 179 days; or

(c) Both such fine and imprisonment not to exceed divisions (a) and (b) above.

(1993 Code, § 1-116)

§ 1-117 SEVERABILITY.

If for any reason any chapter, article, section, division, sentence, clause, or phrase of this code or the application thereof to any person or circumstance, is declared to be unconstitutional or invalid or unenforceable, such decision shall not affect the validity of the remaining portions of this code.

(1993 Code, § 1-117)

ARTICLE 2: GOVERNING BODY

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§ 1-201 GOVERNING BODY.

The governing body shall consist of a Mayor and five Council members to be elected to terms as set out in Chapter VI of this code. The Mayor and Council members shall be residents and qualified electors of the city.

(1993 Code, § 1-201) (Charter Ord. 17-01, passed 1-6-2017)

§ 1-202 SAME; POWERS GENERALLY.

All powers exercised by cities of the third class or which shall hereafter be conferred upon them shall be exercised by the governing body, subject to such limitations as prescribed by law. All executive and administrative authority granted or limited by law shall be vested in the Mayor and Council as governing body of the city.

(K.S.A. 12-103) (1993 Code, § 1-202)

§ 1-203 SAME; MEETINGS.

(a) Regular meetings of the governing body shall be held on the last Monday of the month at 6:30 p.m. In the event the regular meeting day shall fall on any legal holiday or any day observed as a holiday by the city offices, the governing body shall fix the succeeding day not observed as a holiday as a meeting day.

(b) Special meetings may be called by the Mayor or acting Mayor, on the written request of any three members of the Council, specifying the object and purpose of such meeting, which request shall be read at a meeting and entered at length on the journal.

(c) Regular or special meetings of the governing body may be adjourned for the completion of its business at such subsequent time and place as the governing body shall determine in its motion to adjourn.

(K.S.A. 15-106) (1993 Code, § 1-203) (Ord. 522, passed 11-30-2009)

§ 1-204 SAME; QUORUM; TRANSACTION OF CITY BUSINESS; MAJORITY REQUIREMENT.

(a) In all cases, it shall require a majority of the Council members-elect (three) to constitute a quorum to do business.

(b) No transaction of any city business shall be valid unless a majority of all the members-elect (three) of the Council vote in favor thereof.

(c) Division (b) above shall not prevent the mayor from casting the tie-breaking vote on all questions as set forth in § 1-205, and a vote cast by the mayor in breaking a tie shall satisfy the requirements of division (b) above.

(1993 Code, § 1-204) (Charter Ord. 512-05, passed 10-31-2005)

§ 1-205 POWERS OF THE MAYOR.

(a) The Mayor shall preside at all meetings of the governing body. The Mayor shall have the tie-breaking vote on all questions when the members present are equally divided.

(b) The Mayor shall:

- (1) Have the superintending control of all officers and affairs of the city;
- (2) Take care that the ordinances of the city are complied with;
- (3) Sign the commissions and appointments of all officers elected or appointed;
- (4) Endorse the approval of the governing body on all official bonds;

(5) From time to time communicate to the City Council such information and recommend such measures as he or she may deem advisable;

(6) Have the power to approve or veto any ordinance as the laws of the state shall prescribe;
and

(7) Sign all orders and drafts drawn upon the city treasury for money.
(1993 Code, § 1-205)

§ 1-206 PRESIDENT OF THE COUNCIL.

The City Council shall elect one of its own body as President of the Council. The President of the Council shall preside at all meetings of the Council in the absence of the Mayor. In the absence of both the Mayor and the President of the Council, the Council shall elect one of its members as “Acting President of the Council”. The President and Acting President, when occupying the place of Mayor, shall have the same privileges as other Council members, but shall exercise no veto.
(1993 Code, § 1-206)

§ 1-207 ADMINISTRATIVE POWERS.

The governing body may designate whether the administration of a policy or the carrying out of any order shall be performed by a committee, an appointive officer, or the Mayor. If no administrative authority is designated, it shall be vested in the Mayor.
(1993 Code, § 1-207)

§ 1-208 VACANCIES IN GOVERNING BODY; HOW FILLED.

(a) The city, by the power invested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby elects and does make exempt itself and make applicable to its provisions of K.S.A. 15-201, which applies to this city, but is part of an enactment which does not apply uniformly to all cities.

(b) In case of a vacancy in the Council occurring by reason of resignation, death, or removal from office or from the city, the Mayor, by and with the advice and consent of the remaining Council members, shall appoint an elector to fill the vacancy until the next election for that office. In case any person elected as a Council member neglects or refuses to qualify within 30 days after election, the Council member shall be deemed to have refused to accept the office and a vacancy shall exist. The Mayor may, with the consent of the remaining Council members, appoint a suitable elector to fill the vacancy.

(c) In case of a vacancy in the office of Mayor, the President of the Council shall become Mayor until the next regular election for that office and a vacancy shall occur in the office of the Council member becoming Mayor.

(d) All elections for the city shall be nonpartisan.

(e) In accordance with K.S.A. 25-205 and 25-2110, and amendments thereto, any person may become a candidate for city office elected at large by having had filed on their behalf, a nomination petition or a declaration of candidacy, accompanied by any fee required by law. The nomination petition must be signed by 2% of the qualified electors of the city.
(1993 Code, § 1-208) (Charter Ord. 17-01, passed 1-6-2017)

§ 1-209 COMPENSATION.

Members of the governing body shall receive salaries for their service as follows:

(a) Each Council member other than the Mayor shall receive a salary in the amount of \$175 per year, payable in April.

(b) The Mayor shall receive a salary in the amount of \$250 per year, payable in April. Amount of compensation shall be prorated for partial year of service.

(1993 Code, § 1-209)

§ 1-210 EXPENSES.

Each member of the governing body shall receive for his or her services and as reimbursement for his or her expenses, compensation as follows:

(a) Mileage at the same rate as is established by law by the state for state employees for each mile traveled by the shortest route upon the performance of duties assigned by the Mayor and/or Council; and

(b) Reimbursement for actual food and lodging expenses upon the performance of duties assigned by the Mayor and/or Council, provided such expenses shall be documented by proper receipts.

(1993 Code, § 1-210)

§ 1-211 INCORPORATING CODE OF PROCEDURE FOR KANSAS CITIES.

There is hereby incorporated by reference for the purpose of establishing a code of procedure for the conduct of City Council meetings, that certain code known as the "Code of Procedure for Kansas Cities", edition of 2006, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, save and except such articles, sections, parts, or portions as are hereafter omitted, deleted, modified, or changed. One copy of said Code of Procedure for Kansas Cities shall be marked or stamped "Official Copy as Incorporated by the Code of the City of Cunningham, Kansas", with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this section, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours.

(1993 Code, § 1-211)

§ 1-212 CODE OF ETHICS.

(a) *Declaration of policy.* The proper operation of our government requires that public officials and employees be independent, impartial, and responsible to the people; that governmental decisions and policy be made in the proper channels and that the public have confidence in the integrity of its government. In recognition of those goals, there is hereby established a Code of Ethics for all officials and employees, whether elected or appointed, paid or unpaid. The purpose of this Code is to establish ethical standards by setting forth those acts or actions that are incompatible with the best interests of the city.

(b) *Responsibilities of public office.* Public officials and employees are agents of public purpose and hold office for the benefit of the public. They are bound to uphold the Constitution of the United States and the Constitution of this state and to carry out impartially the laws of the nation, state, and city and thus to foster respect for all government. They are bound to observe in their official acts the highest standards of morality and to discharge faithfully the duties of their office regardless of personal considerations, recognizing that the long term public interest must be their primary concern. Their conduct in both their official and private affairs should be above reproach.

(c) *Dedicated service.*

(1) All officials and employees of the city should be responsive to the political objectives expressed by the electorate and the programs developed to attain those objectives. Appointive officials and employees should adhere to the rule of work and performance established as the standard for their positions by the appropriate authority.

(2) Officials and employees should not exceed their authority or breach the law or ask others to do so, and they should work in full cooperation with other public officials and employees unless prohibited from so doing by law or by officially recognized confidentiality of their work.

(d) *Fair and equal treatment.*

(1) *Interest in appointments.* Canvassing of members of the City Council, directly or indirectly, in order to obtain preferential consideration in connection with any appointment to the municipal service shall disqualify the candidate for appointment except with reference to positions filled by appointment by the City Council.

(2) *Use of public property.* No official or employee shall request or permit the use of city-owned vehicles, equipment, materials, or property for personal convenience or profit, except when such services are available to the public generally or are provided as city policy for the use of such official or employee in the conduct of official business.

(3) *Obligations to citizens.* No official or employee shall grant any special consideration, treatment, or advantage to any citizen beyond that which is available to every other citizen.

(e) *Conflict of interest.* No elected or appointive city official or employee, whether paid or unpaid, shall engage in any business or transaction or shall have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of his or her duties in the public interest or would tend to impair his or her independence of judgment or action in the performance of his or her official duties. Personal as distinguished from financial interest includes an interest arising from blood or marriage relationships or close business or political association. Specific conflicts of interest are enumerated below for the guidance of officials and employees:

(1) *Incompatible employment.* No elected or appointive city official or employee shall engage in or accept private employment or render services for private interests when such employment or

service is incompatible with the proper discharge of his or her official duties or would tend to impair his or her independence of judgment or action in the performance of his or her official duties.

(2) *Disclosure of confidential information.* No elected or appointive city official or employee, shall, without proper legal authorization, disclose confidential information concerning the property, government, or affairs of the city. Nor shall he or she use such information to advance the financial or other private interest of himself, herself, or others.

(3) *Gifts and favors.*

(A) No elected or appointive city official or employee shall accept any valuable gift, whether in the form of service, loan, thing, or promise, from any person, firm, or corporation which to his or her knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the city; nor shall any such official or employee:

(i) Accept any gift, favor, or thing of value that may tend to influence him or her in the discharge of his or her duties; or

(ii) Grant in the discharge of his or her duties any improper favor, service, or thing of value.

(B) The prohibition against gifts or favors shall not apply to:

(i) An occasional non-pecuniary gift, of only nominal value;

(ii) An award publicly presented in recognition of public service; or

(iii) Any gift which would have been offered or given to him or her if not an official or employee.

(4) *Representing private interest before city agencies or courts.* No elected or appointive city official or employee whose salary is paid in whole or in part by the city shall appear in behalf of private interest before any agency of this city. He or she shall not represent private interests in any action or proceeding against the interest of the city in any litigation to which the city is a party.

(1993 Code, § 1-212)

ARTICLE 3: OFFICERS AND EMPLOYEES

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§ 1-301 APPOINTMENT.

At the first regular meeting in May of each year, the Mayor, by and with the consent of the Council, shall appoint a City Clerk and City Treasurer, and may appoint a City Attorney, Municipal Judge, Chief of Police, and such other officers as may be deemed necessary for the best interest of the city. Such officers shall hold their respective offices until their successors have been appointed and qualified. All such appointments shall be entered on the journal of proceedings of the governing body. The duties and salaries of all appointed officers shall be fixed by ordinance.

(1993 Code, § 1-301)

§ 1-302 EMPLOYEES.

The Mayor, by and with the consent of the Council, shall have authority to hire all other employees.

(1993 Code, § 1-302)

§ 1-303 REMOVAL.

(a) A majority of all members elect of the Council may remove any appointed officer.

(b) The Mayor may suspend at any time any appointed officer.

(c) Employees, other than appointed officers, may be removed by the Mayor upon recommendation of the respective department heads.

(1993 Code, § 1-303)

§ 1-304 VACANCY IN OFFICE.

Whenever a vacancy occurs in any appointive office for whatever reason, the vacancy shall be filled by the governing body. Any person appointed to fill such vacancy shall serve only until the next regular time for appointment.

(1993 Code, § 1-304)

§ 1-305 CITY CLERK.

The City Clerk shall:

(a) Be custodian of all city records, books, files, papers, documents, and other personal effects belonging to the city and not properly pertaining to any other office;

(b) Carry on all official correspondence of the city;

(c) Attend and keep a record of the proceedings of all regular and special meetings of the governing body;

(d) Enter every appointment of office and the date thereof in the journal;

(e) Enter or place each ordinance of the city in the ordinance books after its passage; and

(f) Publish all ordinances, except those appropriating money, and such resolutions, notices, and proclamations as may be required by law or ordinance.

(1993 Code, § 1-305)

§ 1-306 SAME; FISCAL RECORDS.

The City Clerk shall:

(a) Prepare and keep suitable fiscal records according to generally accepted accounting principles;

(b) Assist in preparing the annual budget;

(c) Audit all claims against the city for goods or services rendered for the consideration of the governing body. His or her accounts shall properly show the amounts paid from any fund of the city and the cash balance existing in each fund;

(d) Keep an accurate account of all bonds issued by the city; and

(e) Keep a record of all special assessments.

(1993 Code, § 1-306)

§ 1-307 SAME; SEAL; OATHS.

The City Clerk shall:

(a) Have custody of the corporate seal of the city and shall affix the same to the official copy of all ordinances, contracts, and other documents required to be authenticated;

(b) Have power to administer oaths for all purposes pertaining to the business and affairs of the city; and

(c) Keep suitable files of all such oaths required to be deposited in his or her office.

(1993 Code, § 1-307)

§ 1-308 SAME; WITHHOLDING AGENTS.

The City Clerk is designated as the withholding agent of the city for the purposes of the Federal Revenue (Income) Act, and shall perform the duties required of withholding agents by said act or any other act requiring withholding from the compensation of any city officer or employee. The Clerk shall perform such other duties as may be prescribed by the governing body or the state statutes.

(1993 Code, § 1-308)

§ 1-309 ASSISTANT CITY CLERK.

(a) The office of Assistant City Clerk is hereby established. The Mayor shall appoint, by and with the consent of the City Council, the Assistant City Clerk. The person so appointed and confirmed shall hold the office for a term of one year and until a successor is appointed and confirmed.

(b) The Assistant City Clerk shall perform those duties assigned to that office by the City Clerk.

(c) Whenever a vacancy occurs in the position of City Clerk and the city is without a person appointed, confirmed, or qualified to hold that office, the Assistant City Clerk shall become the acting City Clerk and fulfill the duties of that office.

(d) Compensation of the assistant City Clerk shall be set by ordinance passed by the governing body.

§ 1-310 CITY TREASURER.

The City Treasurer shall:

(a) Keep a full and accurate record of all money received and paid out in a ledger book provided by the governing body;

(b) Publish an annual financial statement;

(c) Deposit all public moneys and sign all checks of the city;

(d) Pay out city funds only upon orders or warrants properly signed by the Mayor and City Clerk; and

(e) Perform such other duties as may be prescribed by the governing body or the state statutes. (K.S.A. 10-803; K.S.A. 12-1608) (1993 Code, § 1-309)

§ 1-311 CITY ATTORNEY; OFFICE; DUTIES.

There is hereby established the office of City Attorney. No person shall be eligible for the office of City Attorney who is not an attorney at law admitted to practice in the Supreme Court of the state. The City Attorney shall be charged with the general direction and supervision of the legal affairs of the city. The City Attorney shall:

(a) Attend meetings of the City Council when so directed to attend by the city;

(b) Advise the Mayor and City Council and all officers of the city upon such legal questions affecting the city and its offices as may be submitted to him or her;

(c) When requested by the City Council, give opinions in writing upon any such questions;

(d) Draft such ordinances, contracts, leases, easements, conveyances, and other instruments in writing as may be submitted to him or her in the regular transaction of affairs of the city;

(e) Approve all ordinances of the city as to form and legality;

(f) Attend Planning Commission and Board of Zoning Appeals meetings when so directed by the Boards;

(g) Appear and prosecute all violations of city ordinances in Municipal Court when his or her services shall be required; and

(h) Perform such other duties as may be prescribed by the governing body and the state statutes. (1993 Code, § 1-310)

§ 1-312 CITY PROSECUTOR; OFFICE; DUTIES.

(a) There is hereby established the Office of City Prosecutor.

(b) No person shall be eligible for the Office of City Prosecutor who is not an attorney at law admitted to practice law in the state.

(c) The City Prosecutor shall:

(1) Attend meetings of the governing body when so directed to attend by the Mayor or City Attorney;

(2) Advise the City Council and all officers of the city upon legal questions affecting the city and its officers as may be submitted to him or her;

(3) Draft such ordinances and other instruments in writing as may be submitted to him or her in the regular transactions of the affairs of the city;

(4) Appear and prosecute all violations of city ordinances in Municipal Court; and

(5) Perform such other duties as may be prescribed by the governing body and the state statutes.

(d) The governing body may appoint a City Prosecutor in accordance with § 1-301. In the event that there is no City Prosecutor, the City Attorney shall serve in such capacity.

§ 1-313 CITY ENGINEER.

The City Engineer shall be a licensed professional engineer in the state. He or she shall be responsible for:

(a) The design and specifications for all city streets, sewers, water lines, public buildings, and other public facilities;

(b) The inspection of all public works projects including streets, sewers, water lines, and other public facilities; and

(c) The general supervision of the maintenance and repair of all public facilities. (1993 Code, § 1-311)

§ 1-314 APPOINTMENT OR EMPLOYMENT IN MORE THAN ONE POSITION.

The same person may be appointed to more than one appointive office, or employed in more than one department, except that the same person shall not be appointed to incompatible offices. Salaries or wages of such persons shall be prorated between the proper funds of the several offices or departments. (1993 Code, § 1-312)

§ 1-315 CONFLICT OF INTEREST.

All city officers and employees shall comply with the requirements of K.S.A. 75-4301a et seq., concerning governmental ethics and refrain from making or participating in the making of a contract when prohibited by state law. (1993 Code, § 1-313)

ARTICLE 4: PERSONNEL POLICY AND EMPLOYEE BENEFITS

Section

- 1-401 Personnel policies and guidelines
- 1-402 Employee Benefit Contribution Fund

§ 1-401 PERSONNEL POLICIES AND GUIDELINES.

There is hereby incorporated by reference for the purpose of establishing employee personnel rules and regulations the document entitled “Uniform Personnel Policies and Guidelines for the City of Cunningham”. One copy of said document shall be marked or stamped “Official Copy as adopted by the Code of the City of Cunningham” and which there shall be attached a copy of this section. Said official copy shall be filed with the City Clerk and shall be open to inspection and available to the public at all reasonable hours. All departments of the city shall be supplied with copies of such rules and regulations as may be deemed necessary.

(1993 Code, § 1-401)

§ 1-402 EMPLOYEE BENEFIT CONTRIBUTION FUND.

(a) The city, in accordance with the provisions of K.S.A. 12-16,102, as amended, and Charter Ord. 235, does hereby establish an employee benefit contribution fund for the purpose of paying the city’s share of employee benefits prescribed by division (b) below.

(b) The city’s share of the cost of employee benefits authorized for payment from the fund created by division (a) above shall include the following:

- (1) Social Security (FICA);
- (2) Kansas Public Employees Retirement Systems (KPERS);
- (3) Workmen's Compensation Benefits;
- (4) Employee Security, Unemployment Compensation Benefits; and
- (5) Medical, health and hospitalization insurance.

(Charter Ord. 236, passed 5-27-1993)

ARTICLE 5: OATHS AND BONDS

Section

1-501	Oath; affirmation
1-502	Oaths filed
1-503	Bonds required
1-504	Same; premiums
1-505	Condition of bonds
1-506	Approval of bonds

§ 1-501 OATH; AFFIRMATION.

All officers and employees of the city, whether elected or appointed, either under the laws of the State of Kansas or ordinances of the city, shall before entering upon the duties of their respective offices, take and subscribe an oath or affirmation as follows:

(a) *Oath*. “I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States and the Constitution of the State of Kansas and faithfully discharge the duties of _____ (here enter name of office or position). So help me God.”

(b) *Affirmation*. “I do solemnly, sincerely and truly declare and affirm that I will support the Constitution of the United States and of the State of Kansas and faithfully discharge the duties of _____ (enter name of office or position). This I do under the pains and penalties of perjury.” (K.S.A. 54-104; K.S.A. 54-106; K.S.A. 75-4308) (1993 Code, § 1-501)

§ 1-502 OATHS FILED.

All officers and employees required to take and subscribe or sign an oath or affirmation shall be supplied the forms for the purpose at the expense of the city and upon taking and subscribing or signing any such oath or affirmation, the same shall be filed by the City Clerk. (1993 Code, § 1-502)

§ 1-503 BONDS REQUIRED.

(a) The following city officers shall each, before entering upon the duties of his or her office, give a good and sufficient corporate surety bond to the city. The bond shall be in the following amount at a minimum, to wit:

- (1) City Treasurer: \$20,000;
- (2) City Clerk: \$20,000;
- (3) Clerk of Municipal Court: \$1,000; and
- (4) Judge of Municipal Court: \$1,000.

(b) The governing body may provide for the coverage by blanket bond of such officers and employees and in such amounts as the governing body may, by resolution, designate.
(1993 Code, § 1-503)

§ 1-504 SAME; PREMIUMS.

All premiums on surety bonds shall be paid by the city.
(K.S.A. 78-111) (1993 Code, § 1-504)

§ 1-505 CONDITION OF BONDS.

Each of the bonds required in § 1-503 shall be conditioned for the faithful performance of duty and all acts required by the laws of the state and of the city, and for the application and payment over to the proper persons of all moneys or property coming into the hands of each such officer by virtue of his or her office.
(1993 Code, § 1-505)

§ 1-506 APPROVAL OF BONDS.

All bonds given to the city shall be approved as to their form by the City Attorney and as to surety and sufficiency by the governing body, unless otherwise provided by the laws of the state.
(1993 Code, § 1-506)

ARTICLE 6: OPEN RECORDS

Section

- 1-601 Policy
- 1-602 Record custodians
- 1-603 Local Freedom of Information Officers
- 1-604 Public request for access
- 1-605 Facilities for public inspection
- 1-606 Procedures for inspection
- 1-607 Appointment of official custodians
- 1-608 Appointment of Local Freedom of Information Officer
- 1-609 Designation of additional record custodians
- 1-610 Requests to be directed to custodians
- 1-611 Fee administration
- 1-612 Inspection fee
- 1-613 Copying fee
- 1-614 Prepayment of fees
- 1-615 Payment

§ 1-601 POLICY.

(a) It is hereby declared to be the policy of the city that all public records which are made, maintained, or kept by or are in the possession of the city, its officers and employees, shall be open for public inspection as provided by, and subject to the restrictions imposed by, the Kansas Open Records Act.

(b) Any person, upon request, shall have access to such open public records for the purpose of inspecting, abstracting, or copying such records while they are in the possession, custody, and control of the appointed or designated record custodian thereof, or his or her designated representative.
(1993 Code, § 1-601)

§ 1-602 RECORD CUSTODIANS.

(a) All city officers and employees appointed or designated as record custodians under this article shall: protect public records from damage and disorganization; prevent excessive disruption of the essential functions of the city; provide assistance and information upon request; ensure efficient and

timely action and response to all applications for inspection of public records; and shall carry out the procedures adopted by this city for inspecting and copying open public records.

(b) (1) The official custodian shall prominently display or distribute or otherwise make available to the public a brochure in the form prescribed by the Local Freedom of Information Officer that contains basic information about the rights of a requester, the responsibilities of a public agency, and the procedures for inspecting or obtaining a copy of public records under the Kansas Open Records Act.

(2) The official custodian shall display or distribute or otherwise make available to the public the brochure at one or more places in the administrative offices of the city where it is available to members of the public who request public information in person.

(1993 Code, § 1-602)

§ 1-603 LOCAL FREEDOM OF INFORMATION OFFICERS.

The Local Freedom of Information Officer shall:

(a) Prepare and provide educational materials and information concerning the Kansas Open Records Act;

(b) Be available to assist the city and members of the general public to resolve disputes relating the Kansas Open Records Act;

(c) Respond to inquiries relating to the Kansas Open Records Act; and

(d) Establish the requirements for the content, size, shape and other physical characteristics of a brochure required to be displayed or distributed or otherwise made available to the public under the Kansas Open Records Act. In establishing such requirements for the content of the brochure, the Local Freedom of Information Officer shall include plainly written basic information about the rights of a requester, the responsibilities of the city, and the procedures for inspecting and obtaining a copy of public records under the Act.

§ 1-604 PUBLIC REQUEST FOR ACCESS.

(a) All city offices keeping and maintaining open public records shall establish office hours during which any person may make a request for access to an open public record. Such hours shall be no fewer than the hours each business day the office is regularly open to the public.

(b) For any city office not open Monday through Friday, hours shall be established by the record custodian for each such day at which time any person may request access to an open public record.

(1993 Code, § 1-603)

§ 1-605 FACILITIES FOR PUBLIC INSPECTION.

All city offices keeping and maintaining open public records shall provide suitable facilities to be used by any person desiring to inspect and/or copy an open public record. The office of the City Clerk, being the principal record-keeper of the city, shall be used as the principal office for providing access to and providing copies of open records to the maximum extent practicable. Requesters of records shall be referred to the office of the City Clerk, except when the requested records are not in that office and are available in another city office.

(1993 Code, § 1-604)

§ 1-606 PROCEDURES FOR INSPECTION.

Any person requesting access to an open public record for purposes of inspecting or copying such record, or obtaining a copy thereof, shall abide by the procedures adopted by the governing body for record inspection and copying, including those procedures established by record custodians as authorized by the governing body. Such procedures shall be posted in each city office keeping and maintaining open public records.

(1993 Code, § 1-605)

§ 1-607 APPOINTMENT OF OFFICIAL CUSTODIANS.

The following city officers are hereby appointed as official custodians for purposes of the Kansas Open Records Act and are hereby charged with responsibility for compliance with that Act with respect to the hereinafter listed public records:

(a) *City Clerk*. All public records kept and maintained in the City Clerk's office and all other public records not provided for elsewhere in this section;

(b) *City Treasurer*. All public records not on file in the office of the City Clerk and kept and maintained in the City Treasurer's office;

(c) *Chief of Police*. All public records not on file in the office of the City Clerk and kept and maintained in the City Police Department;

(d) *Fire Chief*. All public records not on file in the office of the City Clerk and kept and maintained in the City Fire Department;

(e) *City Attorney*. All public records not on file in the office of the City Clerk and kept and maintained in the City Attorney's office; and

(f) *Clerk of the Municipal Court*. All public records not on file in the office of the City Clerk and kept and maintained in the Municipal Court.

(1993 Code, § 1-606)

§ 1-608 APPOINTMENT OF LOCAL FREEDOM OF INFORMATION OFFICER.

The City Clerk is hereby appointed as the Local Freedom of Information Officer and charged with all of the duties as set forth in § 1-603.

§ 1-609 DESIGNATION OF ADDITIONAL RECORD CUSTODIANS.

(a) Each of the official custodians appointed in § 1-607 is hereby authorized to designate any subordinate officers or employees to serve as record custodian. Such record custodians shall have such duties and powers as are set out in the Kansas Open Records Act.

(b) Whenever an official custodian shall appoint another person as a record custodian he or she shall notify the City Clerk of such designation and the City Clerk shall maintain a register of all such designations.

(1993 Code, § 1-607)

§ 1-610 REQUESTS TO BE DIRECTED TO CUSTODIANS.

(a) All members of the public, in seeking access to, or copies of, a public record in accordance with the provisions of the Kansas Open Records Act, shall address their requests to the custodian charged with responsibility for the maintenance of the record sought to be inspected or copied.

(b) Whenever any city officer or employee appointed or designated as a custodian under this article is presented with a request for access to, or copy of, a public record which record the custodian does not have in his or her possession and for which he or she has not been given responsibility to keep and maintain, the custodian shall so advise the person requesting the record. Further, the person making the request shall be informed as to which custodian the request should be addressed to, if such is known by the custodian receiving the request.

(1993 Code, § 1-609)

§ 1-611 FEE ADMINISTRATION.

The City Clerk is hereby authorized to provide the Clerk's office, and the office of each record custodian, with sufficient cash to enable the making of change for record fee purposes. Each custodian shall transmit all record fee moneys collected to the City Treasurer not less than monthly. Each custodian shall maintain duplicates of all records and copy request forms, completed as to the amount of fee charged and collected, which amounts shall be periodically audited by the Clerk-Finance Officer and Treasurer of the city.

(1993 Code, § 1-610)

§ 1-612 INSPECTION FEE.

(a) Where a request has been made for inspection of any open public record which is readily available to the record custodian, there shall be no inspection fee charged to the requester.

(b) In all cases not covered by division (a) above, a record inspection fee of \$20 per hour per employee engaged in the record search shall be charged. A minimum charge of \$20 shall be charged for each such request.

(1993 Code, § 1-611)

§ 1-613 COPYING FEE.

(a) A fee of \$.25 as set by the city per page shall be charged for photocopying public records.

(b) For copying any public records which cannot be reproduced by the city's photocopying equipment, the requester shall be charged the actual cost to the city, including staff time, in reproducing such records.

(1993 Code, § 1-612)

§ 1-614 PREPAYMENT OF FEES.

(a) A record custodian may demand prepayment of the fees established by this article whenever he or she believes this to be in the best interest of the city. The prepayment amount shall be \$20 or an estimate of the inspection and/or copying charges accrued in fulfilling the record request. Any overage or underage in the prepayment shall be settled prior to inspection of the requested record or delivery of the requested copies.

(b) Prepayment of inspection and/or copying fees shall be required whenever, in the best estimate of the record custodian, such fees are estimated to exceed an amount set by the city.

(c) Where prepayment has been demanded by the record custodian, no record shall be made available to the requester until such prepayment has been made.

(1993 Code, § 1-613)

§ 1-615 PAYMENT.

All fees charged under this article shall be paid to the custodian of the records inspected and/or copied unless the requester has established an account, for purposes of billing and payment, with the city.

(1993 Code, § 1-614)

ARTICLE 7: INVESTMENT OF IDLE FUNDS

Section

- 1-701 Purpose and goals
- 1-702 Active funds; designation of depositories; eligible depositories
- 1-703 Definitions
- 1-704 Investment of idle funds
- 1-705 Procedures and restrictions
- 1-706 Custody and safekeeping
- 1-707 Sale or transfer
- 1-708 Interest on time deposits

§ 1-701 PURPOSE AND GOALS.

(a) It is the purpose of this statement to set forth the public policies of the city relating to the investment of public moneys, and establish procedural requirements as to investment management practice.

(b) The objective of the investment policy and program of the city shall be as follows.

(1) The safeguarding of all public moneys shall be of the highest priority. Public money shall not be invested or managed in any matter which would jeopardize the safety of the principal.

(2) Consistent with the requirement of safety, the objective of the investment program shall be to aggressively manage and invest all public moneys to maximize net earnings, consistent with the public responsibility to secure maximum, safe investment return possible from moneys assigned to its stewardship, to relieve demands on the property tax and to otherwise reduce the cost of public services. (1993 Code, § 1-701)

§ 1-702 ACTIVE FUNDS; DESIGNATION OF DEPOSITORIES; ELIGIBLE DEPOSITORIES.

(a) The governing body shall designate the banks, savings and loan associations, and savings banks which shall serve as depositories of its funds. The Clerk, Treasurer, or other city officer or employee having the custody of city funds shall deposit such funds only at the designated banks, savings and loan associations, and savings banks. Only banks, savings and loan associations, and savings banks that have

main or branch offices in the county shall be designated as official depositories. No such bank, savings bank, or savings and loan association shall be designated as a depository until the city is assured that it can obtain satisfactory security for its deposits.

(b) (1) The Clerk, Treasurer, or other city officer or employee depositing public funds shall deposit all such public funds coming into such person's possession in their name and official title as such officer. If the governing body fails to designate an official depository or depositories, the officer thereof having custody of city funds shall deposit such funds with one or more banks, savings and loan associations or savings banks which have main or branch offices in the county if satisfactory security can be obtained therefor and if not then elsewhere.

(2) In such event, the officer or employee shall serve notice in writing on the governing body showing the names and locations of such banks, savings and loan associations, and savings banks where such funds are deposited, and upon so doing the officer or employee having custody of such funds shall not be liable for the loss of any portion thereof except for official misconduct or for the misappropriation of such funds by the officer or employee.

(c) If eligible banks, savings and loan associations, or savings banks under divisions (a) or (b) above cannot or will not provide an acceptable bid, which shall include services for the depositing of public funds under this section, then banks, savings and loan associations, or savings banks that have main or branch offices in any immediately adjoining county may receive deposits of the city's active funds, if such banks, savings and loan associations, or savings banks have been designated as official depositories under division (a) above and the city can obtain satisfactory security therefor.

§ 1-703 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BANK. Any bank incorporated under the laws of the state or any other state, or organized under the laws of the United States and which has a main or branch office in the state.

BRANCH. Any office within this state, other than the main office, that is approved by a federal or state supervisory agency at which deposits are received, checks paid, or money lent. **BRANCH** does not include an automated teller machine, remote service unit, or similar device or a loan production office.

INVESTMENT RATE. A rate which is the equivalent yield for United States government securities having a maturity date as published in the *Wall Street Journal*, nearest the maturity date for equivalent maturities. The zero- to 90-day rate shall be computed on the average effective federal funds rate as published by the Federal Reserve System for the previous week.

MAIN OFFICE. The place of business specified in the articles of association, certificate of authority or similar document, where the business of the institution is carried on and which is not a branch.

SAVINGS AND LOAN ASSOCIATION. Any savings and loan association incorporated under the laws of the state or any other state, or organized under the laws of the United States and which has a main or branch office in the state.

SAVINGS BANK. Any savings bank organized under the laws of the United States and which has a main or branch office in the state.
(K.S.A. 12-1675a)

§ 1-704 INVESTMENT OF IDLE FUNDS.

Temporarily idle moneys of the city not currently needed, may in accordance with the procedure hereinafter described be invested:

(a) In temporary notes or no-fund warrants issued by the city;

(b) In savings deposits, demand deposits, time deposit, open accounts, certificates of deposit or time certificates of deposit with maturities of not more than two years:

(1) In banks, savings and loan associations and savings banks, which have main or branch offices located in the city; or

(2) If no main or branch office of a bank, savings and loan association, or savings bank is located in the city, then in banks, savings and loan associations, and savings banks, which have main or branch offices in the county or counties in which all or part of the city is located.

(c) In repurchase agreements with:

(1) Banks, savings and loan associations, and savings banks, which have main or branch offices located in the city, for direct obligations of, or obligations that are insured as to principal and interest by, the United States government or any agency thereof;

(2) (A) If no main or branch office of a bank, savings and loan association, or savings bank, is located in the city; or

(B) If no such bank, savings and loan association, or savings bank having a main or branch office located in the city is willing to enter into such an agreement with the city at an interest rate equal to or greater than the investment rate, as defined in division (g) of K.S.A. 12-1675a, and amendments thereto, then such repurchase agreements may be entered into with banks, savings and loan associations, or savings banks which have main or branch offices in the county or counties in which all or part of the city is located.

(3) If no bank, savings and loan association, or savings bank, having a main or branch office in such county or counties is willing to enter into such an agreement with the city at an interest rate equal

to or greater than the investment rate, as defined in division (g) of K.S.A. 12-1675a, and amendments thereto, then such repurchase agreements may be entered into with banks, savings and loan associations or savings banks located within the state.

(d) In direct obligations of or obligations that are insured as to principal and interest by the United States or any agency thereof, not including mortgage-backed securities with maturities as the governing body shall determine, but not exceeding two years. Such investment transactions shall only be conducted with banks, savings and loan associations, and savings banks; the Federal Reserve Bank of Kansas City, Missouri; or with primary government securities dealers which report to the market report division of the Federal Reserve Bank of New York, or any broker-dealer engaged in the business of selling government securities which is registered in compliance with the requirements of § 15 or 15C of the Securities Exchange Act of 1934 and registered pursuant to K.S.A. 17-12a401, and amendments thereto;

(e) In the Municipal Investment Pool Fund established in K.S.A. 12-1677a, and amendments thereto;

(f) In the investments authorized and in accordance with the conditions prescribed in K.S.A. 12-1677b, and amendments thereto;

(g) In multiple municipal client investment pools managed by the trust departments of banks which have main or branch offices located in county or counties where city is located or with trust companies incorporated under the laws of this state which have contracted to provide trust services under the provisions of K.S.A. 9-2107, and amendments thereto, with banks which have main or branch offices located in the county or counties in which the city is located. Public moneys invested under this division (g) shall be secured in the same manner as provided for under K.S.A. 9-1402, and amendments thereto. Pooled investments of public moneys made by trust departments under this division (g) shall be subject to the same terms, conditions and limitations as are applicable to the municipal investment pool established by K.S.A. 12-1677a, and amendments thereto;

(h) The investments authorized in divisions (d), (e), (f), or (g) above shall be utilized only if the banks, savings and loan associations, and savings banks eligible for investments authorized in division (b) above, cannot or will not make the investments authorized in division (b) above available to the city at interest rates equal to or greater than the investment rate, as defined in division (g) of K.S.A. 12-1675a, and amendments thereto; or

(i) In selecting a depository pursuant to division (b) above, if a bank, savings and loan association, or savings bank eligible for an investment deposit thereunder has an office located in the city and such financial institution will make such deposits available to the city at interest rates equal to or greater than the investment rate, as defined in division (g) of K.S.A. 12-1675a, and amendments thereto, and such financial institution otherwise qualifies for such deposit, the governing body shall select one or more of such eligible financial institutions for deposit of funds pursuant to this section. If no such financial

institution qualifies for such deposits, the city shall select for such deposits one or more eligible banks, savings and loan associations, or savings banks which have offices in the county or counties in which all or a part of the city is located which will make such deposits available to the city at interest rates equal to or greater than the investment rate, as defined in division (g) of K.S.A. 12-1675a, and amendments thereto, and which otherwise qualify for such deposits.

(K.S.A. 12-1675) (1993 Code, § 1-702)

§ 1-705 PROCEDURES AND RESTRICTIONS.

The City Clerk shall periodically report to the governing body as to the amount of money available for investment and the period of time such amounts will be available for investment, and shall submit such recommendations as deemed necessary for the efficient and safe management of city finances. The recommendations of the City Clerk shall provide for an investment program which shall so limit the amounts invested and shall schedule the maturities of investments so that the city will, at all times, have sufficient moneys available on demand deposit to assure prompt payment of all city obligations.

(1993 Code, § 1-703)

§ 1-706 CUSTODY AND SAFEKEEPING.

Securities purchased pursuant to this article shall be under the care of the city and shall be held in the custody of a state or national bank or trust company, or shall be kept by such officers in a safety deposit box of the city in a bank or trust company. Securities in the original or receipt form held in the custody of a bank or trust company shall be held in the name of the city, and their redemption, transfer, or withdrawal shall be permitted only upon the written instruction of the Mayor, City Treasurer, and City Clerk. Securities not held in the custody of a bank or trust company shall be personally deposited by two of the above-named officers in a safety deposit box in the name of the city in a bank or trust company, access to which shall be permitted only in the personal presence and under the signature of two of the abovementioned officers.

(1993 Code, § 1-704)

§ 1-707 SALE OR TRANSFER.

If, in order to maintain sufficient moneys on demand deposit in any fund as provided in § 1-705, it becomes necessary to transfer or sell any securities of such funds, the officers specified in § 1-706 may transfer said securities to any other fund or funds in which there are temporarily idle moneys, or shall sell such securities, and for such purpose they shall have authority to make any necessary written direction, endorsement, or assignment for and on behalf of the city.

(1993 Code, § 1-705)

§ 1-708 INTEREST ON TIME DEPOSITS.

The City Clerk shall deposit the interest earned on invested idle funds to the General Fund, unless otherwise required or authorized by law.

(1993 Code, § 1-706)

CHAPTER II: ANIMAL CONTROL AND REGULATION

Article

- 1. GENERAL PROVISIONS**
- 2. DOGS**
- 3. OTHER ANIMALS**

ARTICLE 1: GENERAL PROVISIONS

Section

- 2-101 Definitions
- 2-102 Animal Control Officer; duty to impound; citation alternative
- 2-103 Same; capture/destruction
- 2-104 Same; right of entry; unlawful interference
- 2-105 Municipal pound established
- 2-106 Breaking pound
- 2-107 Reserved
- 2-108 Reserved
- 2-109 Keeping animals
- 2-110 Animal traps
- 2-111 Nuisance; animal activities prohibited
- 2-112 Noisy animals
- 2-113 Animal confines; shelters
- 2-113A Same; stockyards; commercial holding pens
- 2-114 Death of animals
- 2-115 Vicious animals
- 2-116 Running at large
- 2-117 Impoundment; fee; notice; record
- 2-118 Redemption of impounded animals
- 2-119 Impoundment of rabies suspects
- 2-120 Animals bitten by rabid animals
- 2-121 Vehicular accidents involving animals
- 2-122 Emergency; proclamation
- 2-123 Kennel licenses

§ 2-101 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDON. Includes the leaving of an animal by its owner or other person responsible for its care or custody without making effective provisions for its proper care over a 48-hour period.

ANIMAL SHELTER. The facility or facilities operated by the city or its authorized agents for the purpose of impounding or caring for animals under the authority of this chapter or state law.

ANIMALS. All vertebrate and invertebrate animals, such as, but not limited to, bovine cattle, horses and other equines, hogs, goats, dogs, cats, rabbits, sheep, chickens, ducks, geese, turkeys, pigeons, and other fowl or wild animals, reptiles, fish, bees, or birds that have been tamed, domesticated, or captivated.

AT-LARGE. To be outside of a fence or other enclosure that restrains the animals to a particular premise or not under the control, by leash or lead, of the owner or other authorized person capable of restraining the animal. Animals tethered to a stationary object within range of public thoroughfares are deemed to be **AT-LARGE**.

BITE. Any actual or suspected abrasion, scratch, puncture, tear, bruise, or piercing of the skin, caused by any animal, which is actually or suspected of being contaminated or inoculated with the saliva from the animal, directly or indirectly, regardless of the health of the animal causing such bite.

CAT. Any member of the species felis catus, regardless of sex.

DANGEROUS OR VICIOUS ANIMAL. Any animal deemed to be dangerous or vicious per § 2-115.

DOG. Any member of the species canis familiaris, regardless of sex.

FOWL. All animals that are included in the zoological class aves, which shall include, but not limited to, chickens, ducks, geese, turkeys, guineas, and pigeons.

HARBOR. Any person who shall allow any animal to habitually remain or lodge or to be fed within his or her home, store, yard, enclosure, or place of business or any other premises where he or she resides or controls.

HUMANE LIVE ANIMAL TRAP. Any cage trap that upon activation encloses an animal without placing any physical restraint upon any part of the body of such animal.

HUMANELY EUTHANIZE. The proper injection of a substance that quickly and painlessly terminates the life of an animal, or any other method approved by the American Veterinary Medical Association or the American Humane Society.

IMMEDIATE CONTROL. The regulation and supervision by a competent person so that an animal is unable to run or get loose at will.

KENNEL. Any establishment, commercial or otherwise, maintained for breeding, rearing, grooming, boarding, or otherwise harboring in an enclosure in one location only, more than a set number of dogs as determined by the city.

LIVESTOCK. Includes, but is not limited to, cattle, horses, goats, sheep, or other animals commonly regarded or used as farm or ranch animals.

NEUTERED. Any male or female cat or dog that has been permanently rendered sterile.

OWN. Includes own, keep, harbor, shelter, manage, possess, or have a part interest in any animal. If a minor owns any such animal subject to the provisions of this chapter, the head of the household of which such minor is a member shall be deemed to **OWN** such animal for the purposes of this chapter.

OWNER. The one who owns, or his or her employee, agent, or other competent person into whose charge an animal has been placed by the actual owner as described in the definition for “own” above.

VACCINATION. An injection of a vaccine, approved by the State Board of Public Health and administered by a licensed veterinarian for the purpose of immunizing an animal against rabies.

VETERINARIAN. A doctor of veterinary medicine licensed by the State of Kansas.
(1993 Code, § 2-101)

§ 2-102 ANIMAL CONTROL OFFICER; DUTY TO IMPOUND; CITATION ALTERNATIVE.

(a) There is hereby created the position of Animal Control Officer for the city and such officer shall be charged with the enforcement of this chapter. Any person employed by the city as an Animal Control Officer and commissioned by the City Council shall have such powers and authority as allowed by law in the enforcement of this chapter. All Animal Control Officers shall be subject to the supervision and direction of the Mayor of the city.

(b) Except as provided in division (c) below, it shall be the duty of the Animal Control Officer to take up and impound all animals found in the city in violation of the provisions of this chapter.

(c) As an alternative to the provisions of division (b) above, any law enforcement officer or the Animal Control Officer may issue a citation to the owner, harbinger, or keeper of an animal in violation of this chapter, and the person receiving the citation shall appear in the Municipal Court of the city to answer the charged violation of this chapter, unless otherwise indicated in this article.
(1993 Code, § 2-102)

§ 2-103 SAME; CAPTURE/DESTRUCTION.

When deemed necessary by law enforcement officers or the Animal Control Officer for the health, safety, and welfare of the residents of the city, such officers and/or their agents may:

(a) Place a humane trap on public or a requesting resident’s property for the purpose of capturing any animal defined in this chapter as creating a nuisance in the city;

(b) Use any tranquilizer guns, humane traps, or other suitable devices to subdue and capture any animal that is deemed by the Animal Control Officer, in his or her discretion, to be of a danger to itself or to the public health and safety; or

(c) Use firearms or other suitable weapons to destroy any rabid animal, any vicious animal as defined in § 2-115, or any animal creating a nuisance as defined in § 2-111, where such animal is impossible or impractical to catch, capture, or tranquilize.

(1993 Code, § 2-103)

§ 2-104 SAME; RIGHT OF ENTRY; UNLAWFUL INTERFERENCE.

(a) The Animal Control Officer or any law enforcement officer shall have the right of entry upon any private unenclosed lots or lands for the purpose of collecting any animal whose presence thereupon is a violation of this chapter, to the extent allowed by law.

(b) It shall be unlawful for any person to interfere with the Animal Control Officer in the exercise of his or her duties.

(1993 Code, § 2-104)

§ 2-105 MUNICIPAL POUND ESTABLISHED.

(a) A municipal pound shall be established to carry out the provisions of this chapter. Such a pound may be operated by a contractor and all services required herein may be provided by a contractor.

(b) When so contracted, the pound shall have the following services and facilities as a minimum:

(1) Adequate pickup and impounding of all stray and ownerless dogs and cats and animals otherwise in violation of the provisions of this chapter;

(2) Group holding facilities for stray, ownerless, and unvaccinated animals impounded for violation of the provisions of this chapter;

(3) Individual isolation facilities for sick, biting, rabid, and suspected rabid animals; and

(4) Facilities for the humane destruction of animals.

(1993 Code, § 2-105)

§ 2-106 BREAKING POUND.

(a) It shall be unlawful for any unauthorized person to open, unlock, break open, or attempt to break open the pound, or to take or let out any animal placed therein, or take or attempt to take from an authorized officer of this city any animal taken up by him or her under the provisions of this chapter, or in any manner interfere with or hinder any authorized officer or employee of this city in catching, taking up, or impounding any animal.

(b) It shall be unlawful for any person or persons, other than those duly authorized, to care for, feed, attempt to feed, or interfere in any way with the care of impounded animals.
(1993 Code, § 2-106)

§ 2-107 RESERVED.

§ 2-108 RESERVED.

§ 2-109 KEEPING ANIMALS.

(a) It shall be unlawful for the owner, lessee, occupant, or person in charge of any premises in the city to possess and maintain any animal or fowl within the city or permit to be maintained thereon any stable, shed, pen, or other place where horses, mules, cattle, sheep, goats or swine, or undomesticated animals are kept.

(b) This provision shall not apply to:

(1) The maintaining of a stockyard or sales barn for the loading, unloading, temporary detention, and sale of such livestock, if the location of such stockyard or sales barn does not otherwise violate the zoning ordinances of the city;

(2) The maintaining of dogs which are regulated by Article 2 of this chapter;

(3) The maintaining of non-poisonous and non-vicious animals and fowl which are commonly kept as household pets, such as cats, hamsters, rabbits, parakeets, and comparable animals, when kept as household pets and in a safe and sanitary manner in accordance with § 2-113; and

(4) The transporting of animals through the city by ordinary and customary means.
(1993 Code, § 2-109)

§ 2-110 ANIMAL TRAPS.

It shall be unlawful for any person to use, place, set out, or deploy any animal trap aboveground, which makes use of a spring gun, spring jaws, clamping devices, cutting or stabbing mechanism, or any other devices that will damage or severely injure any animal when caught or trapped by the device or trap; except that, nothing herein contained shall prohibit the use of animal traps that are so designed to trap and hold animals without injuring the animals.
(1993 Code, § 2-110)

§ 2-111 NUISANCE; ANIMAL ACTIVITIES PROHIBITED.

(a) It shall be unlawful for the owner of any animal to keep or maintain such animal in the city so as to constitute a nuisance.

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(b) For the purpose of this section, *NUISANCE* is defined as any animal which:

- (1) Molests or interferes with persons in the public right-of-way;
- (2) Attacks or injures persons, or other domestic animals;
- (3) Damages public or private property other than that of its owner or harborer by its activities or with its excrement;
- (4) Scatters refuse that is bagged or otherwise contained; or
- (5) Causes any condition that threatens or endangers the health or well-being of persons or other animals.

(c) If a summons is issued charging violation of this provision, a subpoena shall also be issued to the complainant to testify to the nuisance under oath.
(1993 Code, § 2-111)

§ 2-112 NOISY ANIMALS.

The keeping or harboring of any animal which by loud, frequent and habitual barking, howling, yelping, mewling, roaring, or screeching shall disturb the peace of any neighborhood is hereby prohibited. It shall be the duty of any person harboring or keeping such loud or noisy animal or animals to abate the condition, and if he or she fails to do so, the city may abate it by taking up, impounding, and/or disposing of the animal at the expense of the owner. A mandatory fine of \$25 for a first offense of this section shall be imposed, and such fine can be paid to the City Clerk by a time prescribed by the Animal Control Officer to avoid a municipal court appearance on the violation. Failure to pay said fine by the prescribed time, or a second or subsequent violation of this section shall require a mandatory court appearance. The mandatory fine for a second violation of this section within a one-year period shall be \$50. The mandatory fine for a third or subsequent violation of this section within one-year period shall be \$75.

(1993 Code, § 2-112) (Ord. 607, passed 8-30-2010)

§ 2-113 ANIMAL CONFINES; SHELTERS.

(a) It shall be unlawful for any person to keep or maintain any animal in any yard, structure, or area that is not clean, dry, and sanitary, free from debris and offensive odors that annoy any neighbor, and devoid of rodents and vermin.

(b) Excrement shall be removed at least once each week from any animal shelter, pen, or yard area where animals are kept, or more often if necessary to prevent or control odors, fly breeding, or rodent infestation. If excrement is stored on the premises by any animal owner, it shall be stored in adequate containers with fly-tight lids, and all such stored or accumulated wastes shall be disposed of at least once each week.

(c) All animal shelters, pens, and yards shall be so located that adequate drainage is obtained, normal drying occurs, and standing water is not present.

(d) All animal shelters and board fences confining animals shall be maintained in good repair, and all animal shelters and board fences confining animals subject to residential and commercial classification shall be protected from deterioration by painting or comparable treatment.

(e) Barbed wire fences and electrically charged fences shall not be permitted for animal confines, except on properties in which an agricultural classification permit is held or where the barbed wire fence or electrically charged fence is protected by an exterior fence.

(f) All premises in which animals are kept shall be subject to inspection by the Animal Control Officer, duly authorized law enforcement officer, or Public Health Official. If the Officer or Official determines from such inspection that the premises are not being maintained in a clean and sanitary manner, he or she shall notify the owner of the animals in writing to correct the sanitation deficiencies within 24 hours after notice is served on the owner. Any animal kept under any condition that could endanger the public or animal health or create a health nuisance may be impounded. Animals shall be released after fees are paid and cause for impoundment has been corrected.

(1993 Code, § 2-113)

§ 2-113A SAME; STOCKYARDS; COMMERCIAL HOLDING PENS.

Animal shelters owned or operated as a stockyard or commercial holding pen shall be adequately maintained and cleaned as often as is necessary, as determined by the Health Officer, to control fly breeding or to control other conditions adversely affecting the public health including the following:

(a) Collected fecal material and other solid organic waste shall be disposed of at a sanitary landfill, fertilizer processing plant, or by proper dispersal on land used for agricultural purposes;

(b) Grain or protein feed shall be stored in tightly covered rodent-proof metal containers or rodent-proof bins;

(c) Premises subject to the terms of this section shall be maintained free of rodent harborage and in accordance with §§ 8-601 through 8-608 of this code;

(d) Wherever reasonable, use shall be made of anti-coagulant rodenticides for the control of rodents and organo-phosphorus insecticides for the control of flies or any other effective chemical means for the control of rodents and flies;

(e) Wherever reasonable, use shall be made of soil sterilants and herbicides or other effective means for the control of weeds and grass around structures and buildings;

(f) Enclosures including fences where animals such as horses, cows, sheep, and goats are maintained shall be constructed in a manner, using dimension lumber materials, or other effective means to prevent such animals from breaking out or causing hazard to persons or property;

(g) The solid wastes accumulated from the cleaning of animal shelters and holding pens maintained by persons subject to a residential classification permit as herein provided shall be stored in metal containers, with tight-fitting metal lids, and all such stored or accumulated wastes shall be disposed of at least once each week;

(h) Holding lots, pens, and floors of sheds and buildings where animals are held and which are maintained by persons subject to a commercial, industrial, or agricultural classification permit according to the terms of this chapter shall be surfaced with concrete or asphaltic materials and that the drainage system of such surfaced areas shall include proper retaining walls and traps to control the waste from draining into watercourses and such drainage system shall be subject to the approval of the Health Officer. The Health Officer shall waive this standard for domestic animal holding operations where such animal holding is longer than 24 hours for any domestic animal involved or where dirt lots are more appropriate to the proper care of cattle, horses, or sheep; and

(i) Solid wastes accumulated from the cleaning of animal shelters and holding pens maintained by persons subject to a commercial, industrial or agricultural permit according to the terms of this chapter shall be stored on concrete slabs or other facilities, such as dirt lots on which is stockpiled manure with an exposed perimeter as approved by the Health Officer; provided that, all solid waste shall be properly disposed of at least once each week or as may be approved by the Health Officer.

(1993 Code, § 2-113A)

§ 2-114 DEATH OF ANIMALS.

All dead animals shall be disposed of by the owner or keepers within 24 hours of the animal's death, by burial, incineration in a facility approved by the Animal Control Officer, by rendering or by other lawful means approved by the Animal Control Officer. No dead animal shall be dumped on any public or private property.

(1993 Code, § 2-114)

§ 2-115 VICIOUS ANIMALS.

(a) *Prohibited.* It shall be unlawful for any person to keep, possess, or harbor a vicious animal within the city. Impoundment of animals whose owners have been cited for violation of this section shall be at the discretion of the Animal Control Officer. If the animal presents a clear and present danger to the public health or safety, it shall be the duty of the Animal Control Officer or his or her agent to impound such animal.

(b) *Defined.* For purposes of this chapter a **VICIOUS ANIMAL** shall include:

(1) Any animal with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals;

(2) Any animal that attacks a human being or domestic animal without provocation;

(3) Any animal owned or harbored primarily or in part for the purpose of fighting or any animal trained for fighting; or

(4) Any animal that is urged by its owner or harborer to attack, or whose owner or harborer threatens to provoke such animal to attack, any law enforcement officer while such officer is engaged in the performance of official duty.

(c) *Complaint.* Whenever a sworn complaint is filed in the Municipal Court against the owner of an animal alleging that such animal is vicious and in violation of this section, the Municipal Judge shall hold a hearing to determine whether or not the animal is vicious within the meaning of this section and thereby in violation of this section. The owner of the animal shall be notified in writing of the time and place of the hearing at least one week before the hearing. In making a determination, the Municipal Judge shall consider the following:

(1) The seriousness of the attack or bite;

(2) Past history of attacks or bites;

(3) Likelihood of attacks or bites in the future;

(4) The condition and circumstances in which the animal is kept or confined; and

(5) Other factors that may reasonably relate to the determination of whether or not the animal is vicious.

The Municipal Judge shall order the impoundment, the muzzling in accordance with division (d) below, and/or the confinement of the animal accused of being in violation of this section in a manner and location that will ensure that it is no threat to persons or other animals pending the outcome of the hearing. If such impoundment, muzzling, or otherwise safe confinement is not possible or if prior court orders to restrain such animal have gone unheeded, the Municipal Judge may order the animal immediately destroyed.

(d) *Vicious dogs to be muzzled.* It shall be the duty of every owner, keeper, or harborer of any dog in the city, which dog is vicious or has been known to bite, chase, or run after any person or animal in the streets, alleys, or any public place in the city, to keep the same muzzled with a good and sufficient wire or leather muzzle, securely fastened so as to wholly prevent such dog from biting any animal or person until such time as a determination has been made by the court as to whether the dog is vicious or not. Any person owning, keeping, or harboring any dog within the city limits contrary to this section shall be guilty of a violation of this code.

(e) *Immediate destruction.* Nothing in this chapter shall be construed to prevent the Animal Control Officer or any law enforcement officer from taking whatever action is reasonably necessary to protect himself or herself or members of the public from injury or danger, including immediate destruction of any vicious animal without notice to the owner.

(f) *Release of.* If a complaint has been filed in the Municipal Court against the owner of an impounded animal for a charge under this section, the animal shall not be released, except on the order of the Municipal Judge, who may also direct the owner to pay all impounding fees in addition to any penalties for violation of this chapter. The Municipal Judge may, upon making a finding that an animal is vicious or that it represents a clear and present danger to the citizens or to other animals in the community, order the animal to be destroyed in a humane manner by the animal shelter. Surrender of an animal by the owner thereof to the Animal Control Officer does not relieve or render the owner immune from the decision of the court, nor to the fees and fines which may result from a violation of this section.

(g) *Penalty.* A violation of this section shall require the imposition of a minimum fine of \$200. Any person in violation of this section shall also be required to pay all expenses, including shelter, food, handling, veterinary care, and costs associated with euthanizing the animal. In addition, the Municipal Court may sentence any person in violation of this section to imprisonment in the county jail for a period not to exceed 30 days.

(1993 Code, § 2-115) (Ord. 607, passed 8-30-2010)

§ 2-116 RUNNING AT LARGE.

It shall be unlawful for any person to willfully allow any animal or fowl under his or her control to be or to run at large within the city. A mandatory fine of \$25 for a first offense of this section shall be imposed, and such fine can be paid to the City Clerk by a time prescribed by the Animal Control Officer to avoid a municipal court appearance on the violation. Failure to pay said fine by the prescribed time, or a second or subsequent violation of this section within one year shall require a mandatory court appearance. The mandatory fine for a second violation of this section within a one year period shall be \$50. The mandatory fine for a third or subsequent violation of this section within one-year period shall be \$75. In all cases, the owner shall pay any board bill owing before the animal shall be released.

(1993 Code, § 2-116) (Ord. 607, passed 8-30-2010)

§ 2-117 IMPOUNDMENT; FEE; NOTICE; RECORD.

(a) The Animal Control Officer or law enforcement officer shall impound any animal or fowl found at large in the city or constituting a nuisance or otherwise in violation of this chapter in a suitable pound or enclosure provided or contracted for by the city. The impounding officer shall make diligent inquiry as to the owner of the animal and shall notify the owner thereof of such impoundment as soon as reasonably possible.

(b) The city shall be entitled to receive from such owner an impoundment fee of \$30, plus the actual cost of feeding and maintaining the animal while impounded.

(c) In case the identity of the owner of the impounded animal or fowl cannot be ascertained, the Animal Control Officer or police officer shall, upon taking any such animal into custody and impounding the same, make a record thereof, with a description of the animal and the date and place taken into custody and the place of impounding, and shall thereupon immediately post a public notice stating that the animal, describing the same with the date and place of taking, has been taken up, and that unless the charges of impounding the same, together with any license fees due and unpaid, are paid within three business days from the date of the notice, that the animal will be disposed of as provided in this code.

(d) The Animal Control Officer shall each month submit a report to the City Council showing the number of animals impounded and disposed of, and the fees collected pursuant to this article and shall pay those fees to the City Clerk for credit to the General Operating Fund.
(1993 Code, § 2-117) (Ord. 631, passed 6-25-2012)

§ 2-118 REDEMPTION OF IMPOUNDED ANIMALS.

At any time before the sale or destruction of any animal impounded under the provisions of this article, except for animals impounded under §§ 2-115 (vicious) and 2-119 (rabid), the owner thereof may redeem the animal by paying the impoundment fee and any charges accrued for feeding and maintaining the animal to the Animal Control Officer, the City Clerk, or other designated individual.
(1993 Code, § 2-118) (Ord. 631, passed 6-25-2012)

§ 2-119 IMPOUNDMENT OF RABIES SUSPECTS.

(a) Any law enforcement officer or local Health Officer may take up, upon private or public property, any animal that has bitten or scratched a person or other animal and impound the animal in the city pound, securely penned and separated from other animals, or in a veterinary hospital or animal care facility for a period of not more than 30 days during which time the local Health Officer shall determine whether or not such animal is suffering from a disease and, if not, the local Health Officer shall authorize the release of the animal upon payment by the owner of the boarding fee therefor. The Health Officer may authorize the keeping of any such animal on the owner's premises if the owner produces a rabies vaccination certificate showing that the animal has valid rabies vaccination protection. Impoundment costs shall be borne by the owner. If, in the opinion of the local Health Officer, symptoms develop justifying a microscopic examination, then the animal shall be killed and examination made by the State Board of Health.

(b) In lieu of the provisions of division (a) above, the owner of any such animal may, at his or her own expense, take such animal to any duly qualified and licensed veterinarian in the city for observation. Such veterinarian shall report his or her findings in writing to the local Health Officer. If in the opinion of such veterinarian a microscopic examination is justified, then the animal shall be turned over to the Animal Control Officer or any law enforcement officer to be killed and examination made by the State Board of Health.

(c) Any animal desired for observation by the local Health Officer under this section shall be delivered to the Animal Control Officer or any law enforcement officer upon demand and shall not be

withheld, hidden, or harbored. Any person violating this provision shall be guilty of a violation of this code. Upon refusal of any person to so deliver such animal, the Municipal Judge shall cause a warrant to be issued for the arrest of such person, which warrant shall also provide for the surrender of the animal and shall be lawful authority for the apprehending and forcible taking of such animal.
(1993 Code, § 2-119)

§ 2-120 ANIMALS BITTEN BY RABID ANIMALS.

(a) Whenever a dog, cat, or other animal is bitten by a rabid animal or an animal later proved to have been rabid, it shall be the duty of the owner of the animal that is bitten, to report that fact to the local Health Officer and/or the Police Department.

(b) It shall also be the duty of the owner of the bitten animal to either destroy or have his or her bitten animal destroyed unless:

(1) The animal that was bitten had been vaccinated against rabies at least three weeks before being bitten and has a current vaccination;

(2) If the bitten animal has a current vaccination, it shall be confined for 90 days;

(3) The bitten animal shall be released from confinement only upon written order from the local Health Officer, who declares the animal to be free of rabies; and

(4) If the animal is found to have contracted rabies during confinement, it shall be properly disposed of.

(1993 Code, § 2-120)

§ 2-121 VEHICULAR ACCIDENTS INVOLVING ANIMALS.

Any person who as the operator of a motor vehicle strikes any animal shall stop at once and shall immediately report such injury or death to the owner of such animal, or in the event that the owner cannot be ascertained, and located, the operator shall at once report the accident to the Animal Control Officer or any law enforcement officer.

(1993 Code, § 2-121)

§ 2-122 EMERGENCY; PROCLAMATION.

The Mayor is hereby authorized whenever, in his or her opinion, the danger to the public safety from rabid animals is made imminent to issue a proclamation ordering all persons owning any animal in the city to confine the animal in a good and sufficient enclosure from which the animal cannot escape, or fasten such animal by means of a chain on the premises where the owner may reside, for such time

as may be specified in such proclamation. Any animal not confined during such time may be disposed of wherever found by any police officer, or the Animal Control Officer of the city. The owner of such animal shall be prosecuted for such violation thereof.

(1993 Code, § 2-122)

§ 2-123 KENNEL LICENSES.

(a) No person or household shall own or harbor more than five dogs of six months of age or older or more than one litter of pups, or more than five cats of more than six months of age or more than one litter of kittens, or more than a total of six dogs and cats more than six months of age in any combination, or engage in the commercial business of breeding, buying, selling, trading, training, or boarding cats or dogs or both cats and dogs, without having obtained a kennel license from the City Clerk.

(b) Kennel licenses must be renewed annually. No kennel license shall be issued until an inspection certificate has been issued by the Animal Control Officer certifying approval of the kennel and compliance with the applicable laws of the city and the state, and a certificate by the Zoning Code Enforcement Officer has been issued certifying that the applicant for the kennel license is not violating zoning laws of the city. If the City Clerk has not received any protest against the kennel, the City Clerk may issue a renewal of an existing kennel license at the same location without any report from the Animal Control Officer and Zoning Code Enforcement Officer. If the Animal Control Officer or the Zoning Code Enforcement Officer finds that the holder of any kennel license is violating any zoning law, or any other law of the state, or of the city, or is maintaining the facility in a manner detrimental to the health, safety, or peace of mind of any person residing in the immediate vicinity, he or she shall report such fact to the City Clerk, and the license shall not be renewed, except after a public hearing before the governing body.

(c) The Animal Control Officer, the Zoning Enforcement Officer, or any law enforcement officer shall have the right to inspect any premises licensed under this section at any reasonable time and nothing shall prevent the entry onto private property for the purpose of inspection. The application for a kennel shall constitute consent to such entry and inspection.

(d) The governing body may suspend or revoke a kennel license if, pursuant to a public hearing, it finds any of the following.

(1) The kennel is maintained in violation of any applicable law of the state, or of the city.

(2) The kennel is maintained so as to be a public nuisance.

(3) The kennel is maintained so as to be detrimental to the health, safety, or peace of mind of persons residing in the immediate vicinity.

(e) The annual kennel license fee shall be as set by the city. Payment of such license fee is in addition to, and not in lieu of, the dog license fees otherwise required under this chapter.

(f) This section shall not apply to and will not be construed to require a kennel license for a licensed veterinarian to operate an animal hospital.

(g) For a first offense of this section, a mandatory fine of \$25 per animal over the established animal limit shall be imposed, and such fine can be paid to the City Clerk by a time prescribed by the Animal Control Officer to avoid a municipal court appearance on the violation. Failure to pay said fine by the prescribed time or a second or subsequent violation of this section shall require a mandatory court appearance. The mandatory fine for a second violation of this section within a one-year period shall be \$50 per animal over the established animal limit. The mandatory fine for a third or subsequent violation of this section within a one-year period shall be \$75 per animal over the established animal limit.
(1993 Code, § 2-123) (Ord. 607, passed 8-30-2010)

ARTICLE 2: DOGS

Section

- 2-201 Registration and vaccination required; fee
- 2-202 Dog tags
- 2-203 Same; counterfeit tag
- 2-204 Evidence of vaccination
- 2-205 Visiting dogs
- 2-206 Running at large; fine
- 2-207 Impoundment; record; notice; redemption; minimum fee
- 2-208 Disposition of unclaimed dogs
- 2-209 Confinement of dogs in heat
- 2-210 Muzzling

§ 2-201 REGISTRATION AND VACCINATION REQUIRED; FEE.

(a) Every owner of any dog over six months of age shall annually register with the City Clerk his or her name and address with the name, sex, and description of each dog owned and kept within the city. It shall be unlawful for the owner of any newly acquired dog or any dog brought into the city to fail to register such animal within 30 days from acquisition or bringing the dog into the city. It shall be unlawful for the owner of any previously registered dog to fail to maintain current registration of such dog.

(b) Upon registration, the owner shall present a current, completed certificate of immunization against rabies. No registration shall follow without evidence of this document, and it shall be unlawful for the owner of any dog over six months of age to fail to maintain effective rabies immunization of such dog.

(c) The owner or harbinger of any dog shall, at the time of registering such dog, present to the City Clerk a certificate from an accredited veterinarian showing that a male dog has been neutered or a female dog has been spayed, if the dog has been neutered or spayed.

(d) Effective January 1, 2017, the City Clerk shall collect an annual registration fee of \$2 for each neutered male dog and for each spayed female dog, and \$4 for each unneutered male dog and for each unspayed female dog.

(e) The registration year shall be from October 1 through September 30 each year. The mandatory fine for failure to register a dog as required by this section or to wear any dog tag issued at registration shall be \$50 per dog. Such fine can be paid to the City Clerk by a time prescribed by the Animal Control Officer to avoid a Municipal Court appearance on the violation. Failure to pay said fine by the prescribed time shall require a mandatory court appearance.

(f) Registration fees as enumerated above may be prorated for newly acquired dogs or for dogs owned by a person or persons moving to and establishing a home in the city during a calendar year. Every owner or harbinger of dog or dogs who shall fail to register the same prior to March 1 of each year shall pay in addition to the registration fee herein provided a penalty fee for late registration. (1993 Code, § 2-201) (Ord. 607, passed 8-30-2010)

§ 2-202 DOG TAGS.

(a) It shall be the duty of the City Clerk or designated agent, upon a showing of current rabies immunization and receipt of the registration fee hereinbefore required, to keep a record of the registration of dogs, the time of the registration, the name of the owner or keeper, the number of the registration, and the amount paid therefor, and shall deliver to the owner or keeper of the dog a certificate in writing, stating that the person has registered the dog and the number by which the dog is registered, and shall also deliver to the owner or keeper of the dog a tag with the registration number and the registration year thereon, which shall be, by the owner or keeper, attached to the collar to be used on the dog so registered.

(b) When any tag has become lost during a registration period, the owner of the dog may request a duplicate tag for the remainder of the registration period.

(c) When so requested, the City Clerk shall, upon presentation of the registration certificate, issue a duplicate of such tag upon the payment of a fee as set by the city in § 2-201. It shall be unlawful for any person to take off or remove the city registration tag from any dog belonging to another, or remove the strap or collar on which the same is fastened.

§ 2-203 SAME; COUNTERFEIT TAG.

It shall be unlawful for any person to place on any dog a tag issued for any other dog or to make or use any false, forged, or counterfeited tag or imitation thereof.

§ 2-204 EVIDENCE OF VACCINATION.

It shall be unlawful for the owner of any dog kept within the city to fail to display a current certificate of immunization against rabies issued by an accredited veterinarian evidencing the vaccination of such dog within two years, when requested by the Animal Control Officer or any law enforcement officer.

(1993 Code, § 2-202)

§ 2-205 VISITING DOGS.

The provisions of this article with respect to registration shall not apply to any dog owned by any person visiting or temporarily remaining within the city for less than 30 days. However, such dogs shall be kept under restraint by the owner thereof at all times.

(1993 Code, § 2-203)

§ 2-206 RUNNING AT LARGE; FINE.

(a) It shall be unlawful for the owner or harborer of any dog to permit such dog to run at large within the city at any time.

(b) Any dog running at large within the city shall be impounded as set out in § 2-207.

(c) The owner or harborer of any dog impounded for running at large shall upon claiming the animal present a registration receipt and pay the cost of the board bill. Mandatory fines shall also be imposed for violations of this section. A mandatory fine of \$25 shall be assessed for a first offense of this section. The fine for a first offense can be paid to the City Clerk by a time prescribed by the Animal Control Officer to avoid a Municipal Court appearance on the violation. Failure to pay said fine by the prescribed time shall require a mandatory court appearance. For a second offense within a one-year period, the owner or harborer shall pay a mandatory fine of \$50. For a third or subsequent offense within a one-year period, the owner or harborer shall pay a mandatory fine of \$75. Mandatory court appearances shall be required for second or subsequent violations of this section within a one-year period.

(d) For the first offense of an animal running at large without a tag as required by § 2-202, the owner or harborer claiming any animal, shall, in addition to presenting a registration receipt, pay the cost of the board bill. For a second offense within a one-year period, the owner or harborer shall pay a fine as set by the city, plus the board bill. For a third and all subsequent offenses within a one-year-period, the owner or harborer shall pay a fine as set by the city, plus the cost of the board bill. (1993 Code, § 2-204) (Ord. 607, passed 8-30-2010)

§ 2-207 IMPOUNDMENT; RECORD; NOTICE; REDEMPTION; MINIMUM FEE.

(a) Any dog found in violation of the provisions of this article shall be subject to impoundment by the city.

(b) A record of all dogs impounded shall be kept by the city containing the following information: color, sex, weight, height, identifying marks, registration number (if any), and the date of impoundment.

(c) No dog impounded under this section shall be disposed of until after expiration of a minimum of three full business days of custody during which the public has clear access to inspect and recover the dog through time periods ordinarily accepted as usual business hours. During such time of custody, the

city shall attempt to notify the owner or custodian of any dog impounded by such facility if the owner or custodian is known or reasonably ascertainable. Such dog may at any time be released to the legal owner, moved to a veterinary hospital for treatment or observation, released in any manner, if such dog was a gift to the animal shelter, or euthanized by a licensed veterinarian if it appears to the veterinarian that the dog is diseased or disabled beyond recovery. If within three full business days, the owner does not appear to claim the dog, then the dog may be sold, euthanized, or otherwise disposed of.

(d) If, at any time before the sale or destruction of any dog impounded under the provisions of this article, the owner of an impounded dog does appear and redeem the dog, it shall be turned over to the person claiming it upon payment of any impoundment fees or penalties, plus the actual costs of impoundment, and shall not apply to any dog alleged as being vicious under § 2-115 or suspected of rabies under § 2-119.

(e) The minimum impoundment fee shall be as set by the city.

(f) Any dog impounded may not be released without a current rabies vaccination.

(g) Impoundment hereunder shall not preclude any court from imposing and executing any fine that might otherwise be levied under this article for violation of any of the provisions thereof; nor shall impoundment be a defense in any prosecution commenced hereunder.

(h) The redemption of any dog impounded for a violation of any provision of this chapter shall be prima facie evidence of the violation of such provision by the person redeeming the dog.
(1993 Code, § 2-205)

§ 2-208 DISPOSITION OF UNCLAIMED DOGS.

(a) If any dog is not redeemed by its owner or harborer within the time allowed for redemption as specified in § 2-207 thereof, the Animal Control Officer, any authorized law enforcement officer, any authorized veterinarian, or any duly authorized pound personnel may destroy such dog or sell the same for the costs of impoundment and keeping, plus any registration fee due for the current year.

(b) No dog may be transferred to the permanent custody of a prospective owner unless:

(1) Such dog has been surgically spayed or neutered before the physical transfer of the dog occurs; or

(2) The prospective owner signs an agreement to have the dog spayed or neutered and deposits with the city not less than the lowest nor more than the highest cost of spaying or neutering in the community as determined by the city. Any funds deposited under such an agreement shall be refunded to such person upon presentation of a written statement signed by a licensed veterinarian that the dog has been spayed or neutered. If such person does not reclaim the deposit within six months after receiving custody of the dog, the city shall keep the deposit and may reclaim the unspayed or unneutered dog.

(c) Nothing in this section shall be construed to require sterilization of a dog that is being held by the city and that may be claimed by its rightful owner within the holding period established in § 2-207. (1993 Code, § 2-206)

§ 2-209 CONFINEMENT OF DOGS IN HEAT.

Any unspayed female dog in the stage of estrus (heat) shall be confined during such period of time in a house, building, or secure enclosure, and the area of enclosure shall be so constructed that no other dog or dogs may gain voluntary access to the confined animal, except for purposes of planned breeding. Any animal that is in the state of estrus (heat) and that is not properly confined, or any such animal that is creating a neighborhood nuisance, shall be removed to a boarding kennel, to a veterinary hospital, or to the animal shelter. All expenses incurred as a result of the confinement shall be paid by the owner. The owner of animals removed to the animal shelter shall be charged at the rate established from time to time by the animal shelter for routine confinement. (1993 Code, § 2-207)

§ 2-210 MUZZLING.

Whenever the Mayor shall deem it necessary for the protection and welfare of the inhabitants of the city, he or she shall issue an order requiring all dogs kept within the city to be effectively muzzled for such length of time as may be specified in the order, to prevent them from biting or injuring persons or animals. Such order shall be published in the official newspaper of the city for such period of time as the Mayor may deem necessary. (1993 Code, § 2-208)

§ 2-211 PIT BULL AND ROTTWEILER DOGS.

(a) (1) It shall be unlawful to keep, harbor, own, or in any way possess within the corporate limits of the city any pit bull dog.

(2) *PIT BULL DOG* is defined to mean:

(A) The Bull Terrier breed of dogs;

(B) The Staffordshire Bull Terrier breed of dogs;

(C) The American Pit Bull Terrier breed of dogs;

(D) The American Staffordshire Terrier breed of dogs;

(E) Dogs of mixed breed or of other breeds than the above listed which breed or mixed breed is known as pit bulls, pit bull dogs, or pit bull terriers;

(F) Any dog which has the appearance and characteristics of being predominantly of the breeds of Bull Terrier, Staffordshire Bull Terrier, American Pit Bull Terrier, American Staffordshire Terrier, and other breed commonly known as pit bulls, pit bull dogs, or pit bull terriers or a combination of any of these breeds.

(c) It shall be unlawful to keep, harbor, own, or in anyway possess within the corporate limits of the city any Rottweiler Dog.

(1993 Code, § 2-209) (Ord. 242, passed - -; Ord. 400, passed 5-26-1998)

ARTICLE 3: OTHER ANIMALS

Section

2-301 Exotic animals

§ 2-301 EXOTIC ANIMALS.

(a) It shall be unlawful for any person, firm, or corporation to keep, maintain, or have in his or her possession or under his or her control within the city any poisonous reptile or any other dangerous wild animal or reptile, any vicious or dangerous animal, or any other animal or reptile of wild, vicious, or dangerous propensities.

(b) It shall be unlawful for any person to keep, maintain, or have in his or her possession or under his or her control within the city any of the following animals:

- (1) All poisonous animals including rear-fang snakes;
- (2) Apes: chimpanzees; gibbons; gorillas; orangutans; and siamangs;
- (3) Baboons;
- (4) Badgers;
- (5) Bears;
- (6) Bison;
- (7) Bobcats;
- (8) Cheetahs;
- (9) Crocodilians, 30 inches in length or more;
- (10) Constrictor snakes, six feet in length or more;
- (11) Coyotes;

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(12) Deer; includes all members of the deer family, for example, white-tailed deer, elk, antelope, and moose;

(13) Elephants;

(14) Game cocks and other fighting birds;

(15) Hippopotami;

(16) Hyenas;

(17) Jaguars;

(18) Leopards;

(19) Lions;

(20) Lynxes;

(21) Monkeys;

(22) Ostriches;

(23) Pumas; also known as cougars, mountain lions, and panthers;

(24) Raccoons;

(25) Rhinoceroses;

(26) Skunks;

(27) Tigers; and

(28) Wolves.

(c) The prohibitions of this section shall not apply to bona fide pet shops, zoos, circuses, carnivals, educational institutions, or medical institutions, if:

(1) Their location conforms to the provisions of the zoning ordinance of the city;

(2) All animals and animal quarters are kept in a clean and sanitary condition and so maintained as to eliminate objectionable odors; and

(3) Animals are maintained in quarters so constructed as to prevent their escape.

(d) For a first offense of this section, a mandatory fine of \$25 per unlawful animal shall be imposed, and such fine can be paid to the City Clerk by a time prescribed by the Animal Control Officer to avoid a Municipal Court appearance on the violation. Failure to pay said fine by the prescribed time, or a second or subsequent violation of this section within one year shall require a mandatory court appearance. The mandatory fine for a second violation of this section within a one-year period shall be \$50 per unlawful animal. The mandatory fine for a third or subsequent violation of this section within a one-year period shall be \$75 per unlawful animal. The Municipal Judge shall have the authority to order any animal deemed vicious confined, destroyed, or removed from the city.
(1993 Code, § 2-301) (Ord. 607, passed 8-30-2010)

CHAPTER III: BEVERAGES

Article

- 1. GENERAL PROVISIONS**
- 2. CEREAL MALT BEVERAGES**
- 3. ALCOHOLIC LIQUOR**
- 4. PRIVATE CLUBS**
- 5. DRINKING ESTABLISHMENTS**
- 6. CATERERS**
- 7. TEMPORARY PERMITS**
- 8. SPECIAL EVENT CMB PERMITS**
- 9. KEG REGISTRATION**

ARTICLE 1: GENERAL PROVISIONS

Section

- 3-101 Definitions
- 3-102 Restriction on location
- 3-103 Minors on premises
- 3-104 Consumption on public property
- 3-105 Public sale; consumption
- 3-106 Consumption while driving
- 3-107 Identification card

§ 3-101 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALCOHOL. The product of distillation of any fermented liquid, whether rectified or diluted, whatever the origin thereof, and includes synthetic ethyl alcohol but does not include denatured alcohol or wood alcohol.

ALCOHOLIC LIQUOR. Alcohol, spirits, wine, beer, and every liquid or solid, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed as a beverage by a human being, but shall not include any cereal malt beverage.

CATERER. An individual, partnership, or corporation which sells alcoholic liquor by the individual drink, and provides services related to the serving thereof, on unlicensed premises which may be open to the public, but does not include a holder of a temporary permit selling alcoholic liquor in accordance with the terms of such permit.

CEREAL MALT BEVERAGE. Any fermented, but undistilled, liquor brewed or made from malt or from a mixture of malt or malt substitute, but does not include any such liquor which is more than 3.2% alcohol by weight.

CLASS A CLUB. A premises which is owned or leased by a corporation, partnership, business trust, or association and which is operated thereby as a bona fide nonprofit social, fraternal, or war veterans' club, as determined by the state, for the exclusive use of the corporate stockholders, partners, trust

beneficiaries, or associates (hereinafter referred to as members), and their families and guests accompanying them.

CLASS B CLUB. A premises operated for profit by a corporation, partnership, or individual, to which members of such club may resort for the consumption of food or alcoholic beverages and for entertainment.

CLUB. A Class A or Class B club.

DRINKING ESTABLISHMENT. Premises which may be open to the general public, where alcoholic liquor by the individual drink is sold.

GENERAL RETAILER. A person who has a license to sell cereal malt beverages at retail.

LIMITED RETAILER. A person who has a license to sell cereal malt beverages at retail only in original and unopened containers and not for consumption on the premises.

PLACE OF BUSINESS. Any place at which cereal malt beverages or alcoholic beverages or both are sold.

TEMPORARY PERMIT. A permit, issued in accordance with the laws of the state, which allows the permit holder to offer for sale, sell, and serve alcoholic liquor for consumption on unlicensed premises, open to the public.

WHOLESALE or DISTRIBUTOR. Any individuals, firms, co-partnerships, corporations, and associations which sell or offer for sale any beverage referred to in this chapter, to persons, co-partnerships, corporations, and associations authorized by this chapter to sell cereal malt beverages at retail.

(1993 Code, § 3-101)

§ 3-102 RESTRICTION ON LOCATION.

(a) No alcoholic liquor shall be sold or served by a person holding a license or permit from the city whose place of business or other premises are located within 200 feet of any (church, school, nursing home, library, hospital, said distance to be measured from the nearest property line of such (church, school, nursing home, library, hospital), to the nearest portion of the building occupied by the premises.

(b) The distance location of division (a) above shall not apply to a club, drinking establishment, caterer or temporary permit holder when the license or permit applicant petitions for and receives a waiver of the distance limitation from the governing body. The governing body shall grant such a waiver only following public notice and hearing and a finding by the governing body that the proximity of the establishment is not adverse to the public welfare or safety.

(c) No license or permit shall be issued for the sale of alcoholic liquor if the building or use does not meet the zoning ordinance requirements of the city or conflicts with other city laws, including building and health codes.

§ 3-103 MINORS ON PREMISES.

(a) It shall be unlawful for any person under the age of 21 years to remain on any premises where the sale of alcoholic liquor is licensed for on-premises consumption, or where a caterer or temporary permit holder is serving alcoholic liquor.

(b) It shall be unlawful for the operator, person in charge or licensee of any premises licensed for on-premises consumption of alcoholic liquor or a caterer or temporary permit holder who is serving alcoholic liquor to permit any person under the age of 21 years to remain on the premises.

(c) This section shall not apply if the person under the age of 21 years is accompanied by his or her parent or guardian, or if the licensed or permitted premises derive not more than 30% of its gross receipts in each calendar year from the sale of alcoholic liquor for on-premises consumption.
(1993 Code, § 3-102)

§ 3-104 CONSUMPTION ON PUBLIC PROPERTY.

No person shall drink or consume any alcoholic liquor on city owned public property. However, this prohibition shall not apply to property owned by the city, as designated by the city.
(K.S.A. 41-719) (1993 Code, § 3-103)

§ 3-105 PUBLIC SALE; CONSUMPTION.

(a) It shall be unlawful for any person to sell, serve or dispense any cereal malt beverage or alcoholic beverage in any public place not licensed to sell, serve or dispense such beverage at such public place within or under the jurisdiction of the city.

(b) It shall be unlawful for any person to drink or consume any cereal malt beverage or alcoholic beverage in any public place not licensed to sell and serve such beverage for public consumption at such public place within or under the jurisdiction of the city.

(c) For purposes of this section, the term **PUBLIC PLACE** shall include upon any street, public thoroughfare, public parking lot or any privately-owned parking area made available to the public generally, within any parked or driven motor vehicle situated in any of the aforesaid places or upon any property owned by the state or any governmental subdivision thereof unless such property is leased to others under K.S.A. 12-1740 et seq. if the property is being used for hotel or motel purposes or purposes incidental thereto or is owned or operated by an airport authority created pursuant to K.S.A. Chapter 27.

(K.S.A. 41-719) (1993 Code, § 3-104)

§ 3-106 CONSUMPTION WHILE DRIVING.

It shall be unlawful for any person to consume any cereal malt beverage or alcoholic beverage while operating any vehicle upon any street or highway.

(K.S.A. 8-1599; K.S.A. 41-719) (1993 Code, § 3-106)

§ 3-107 IDENTIFICATION CARD.

(a) It shall be unlawful for any person to:

(1) Display, cause or permit to be displayed, or have in possession, any fictitious, fraudulently altered, or fraudulently obtained identification card for purposes relating to the sale, purchase, or consumption of either cereal malt beverage or alcoholic liquor;

(2) Display or represent any identification card not issued to such person as being his or her card for purposes relating to the sale, purchase, or consumption of either cereal malt beverage or alcoholic liquor;

(3) Permit any unlawful use of an identification card issued to a person for purposes relating to the sale, purchase, or consumption of either cereal malt beverage or alcoholic liquor; and

(4) Photograph, photostat, duplicate, or in any way reproduce any identification card or facsimile thereof in such a manner that it could be mistaken for a valid identification card or display or have in possession any such photograph, photostat, duplicate, reproduction, or facsimile for purposes relating to the sale, purchase, or consumption of either cereal malt beverage or alcoholic liquor.

(b) It shall be unlawful for any person to:

(1) Lend any identification card to or knowingly permit the use of any identification card by any person under 21 years of age for use in the sale, purchase, or consumption of any alcoholic liquor; or

(2) Lend any identification card to or knowingly permit the use of any identification card by any person under 21 years of age for use in the sale, purchase, or consumption of any cereal malt beverage.

(1993 Code, § 3-107)

ARTICLE 2: CEREAL MALT BEVERAGES

Section

- 3-201 License required of retailers
- 3-202 Application
- 3-202A License application procedures
- 3-203 License granted; denied
- 3-204 License to be posted
- 3-205 License, disqualification
- 3-206 Restriction upon location
- 3-207 License fee
- 3-208 Suspension of license
- 3-209 License suspension/revocation by governing body
- 3-210 Same; appeal
- 3-211 Change of location
- 3-212 Wholesalers and/or distributors
- 3-213 Business regulations; general provisions
- 3-214 Prohibited conduct on premises
- 3-215 Sanitary conditions required
- 3-216 Minors on premises

§ 3-201 LICENSE REQUIRED OF RETAILERS.

(a) It shall be unlawful for any person to sell any cereal malt beverage at retail without a license for each place of business where cereal malt beverages are to be sold at retail.

(b) It shall be unlawful for any person, having a license to sell cereal malt beverages at retail only in the original and unopened containers and not for consumption on the premises, to sell any cereal malt beverage in any other manner.

(K.S.A. 41-2702) (1993 Code, § 3-201)

§ 3-202 APPLICATION.

(a) Any person desiring a license shall make an application to the governing body of the city and accompany the application by the required license fee for each place of business for which the person desires the license. The application shall be verified, and upon a form prepared by the Attorney General of the state, and shall contain:

- (1) The name and residence of the applicant and how long he or she has resided within the state;
- (2) The particular place for which a license is desired;
- (3) The name of the owner of the premises upon which the place of business is located;
- (4) The names and addresses of all persons who hold any financial interest in the particular place of business for which a license is desired;
- (5) A statement that the applicant is a citizen of the United States and not less than 21 years of age and that he or she has not within two years immediately preceding the date of making application been convicted of a felony or any crime involving moral turpitude, or been adjudged guilty of drunkenness, or driving a motor vehicle while under the influence of intoxicating liquor or the violation of any other intoxicating liquor law of any state or of the United States;
- (6) Each application for a general retailer's license shall be accompanied by a certificate from the City Health Officer certifying that he or she has inspected the premises to be licensed and that the same comply with the provisions of Chapter VIII of this code; and
- (7) Each application for a general retailer's license must be accompanied by a certificate from the City Fire Chief certifying that he or she has inspected the premises to be licensed and that the same comply with the provisions of Chapter VII of this code.

(b) The application shall be accompanied by a statement, signed by the applicant, authorizing any governmental agency to provide the city with any information pertinent to the application. One copy of such application shall immediately be transmitted to the Chief of Police of the city for investigation of the applicant. It shall be the duty of the Chief of Police to investigate such applicant to determine whether he or she is qualified as a licensee under the provisions of this chapter. The Chief shall report to the person designated by the city not later than five working days subsequent to the receipt of such application. The application shall be scheduled for consideration by the governing body at the earliest meeting consistent with current notification requirements.
(1993 Code, § 3-202)

§ 3-202A LICENSE APPLICATION PROCEDURES.

- (a) All applications for a new and renewed cereal malt beverage license shall be submitted to the City Clerk ten days in advance of the governing body meeting at which they will be considered.
- (b) The City Clerk's office shall notify the applicant of an existing license 30 days in advance of its expiration.

(c) The Clerk's office shall provide copies of all applications to the Police Department, to the Fire Department, and to the City-County Health Department, when they are received. The Police Department will run a records check on all applicants and the Fire Department and Health Department will inspect the premises in accord with Chapters VII and VIII of this code. The Departments will then recommend approval, or disapproval, of applications within five working days of the Department's receipt of the application.

(d) The governing body will not consider any application for a new or renewed license that has not been submitted ten days in advance and been reviewed by the above city departments.

(e) An applicant who has not had a cereal malt beverage license in the city shall attend the governing body meeting when the application for a new license will be considered.
(1993 Code, § 3-202A)

§ 3-203 LICENSE GRANTED; DENIED.

(a) The journal of the governing body shall show the action taken on the application.

(b) If the license is granted, the City Clerk shall issue the license which shall show the name of the licensee and the year for which issued.

(c) No license shall be transferred to another licensee.

(d) If the license shall be denied, the license fee shall be immediately returned to the person who has made application.
(1993 Code, § 3-203)

§ 3-204 LICENSE TO BE POSTED.

Each license shall be posted in a conspicuous place in the place of business for which the license is issued.
(1993 Code, § 3-204)

§ 3-205 LICENSE, DISQUALIFICATION.

No license shall be issued to:

(a) A person who has not been a resident in good faith of the state for at least one year immediately preceding application and a resident of the county for at least six months prior to filing of such application;

(b) A person who is not a citizen of the United States;

(c) A person who is not of good character and reputation in the community in which he or she resides;

(d) A person who, within two years immediately preceding the date of making application, has been convicted of a felony or any crime involving moral turpitude, or has been adjudged guilty of drunkenness or driving a motor vehicle while under the influence of intoxicating liquor or the violation of any other intoxicating liquor law of any state or of the United States;

(e) A partnership, unless all the members of the partnership shall otherwise be qualified to obtain a license;

(f) A corporation if any manager, officer, or director thereof or any stockholder owning in the aggregate more than 25% of the stock of such corporation would be ineligible to receive a license hereunder for any reason other than non-residence within the city or county;

(g) A corporation, if any manager, officer, or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of such corporation, has been an officer, manager or director, or a stockholder owning in the aggregate more than 25% of the stock, of a corporation which:

(1) Has had a retailer's license revoked under K.S.A. 41-2708 and amendments thereto; or

(2) Has been convicted of a violation of the drinking establishment act or the cereal malt beverage laws of this state.

(h) A person whose place of business is conducted by a manager or agent unless such manager or agent possesses the same qualifications required of the licensee;

(i) A person whose spouse would be ineligible to receive a retailer's license for any reason other than citizenship, retailer residency requirements or age, except that this division (i) shall not apply in determining eligibility for a renewal license; or

(j) A person whose spouse has been convicted of a felony or other crime which would disqualify a person from licensure under this section and such felony or other crime was committed during the time that the spouse held a license under the Cereal Malt Beverage Act.

(K.S.A. 41-2703) (1993 Code, § 3-205)

§ 3-206 RESTRICTION UPON LOCATION.

(a) No license shall be issued for the sale at retail of any cereal malt beverage on premises which are located in areas not zoned for such purpose.

(b) It shall be unlawful to sell or dispense at retail any cereal malt beverage at any place within the city limits that is within a 200-foot radius of any church, school or library.

(c) Provisions of this section shall not apply to any establishment holding a private club license issued by the state.

(d) The distance limitation of division (b) above shall not apply to any establishment holding a cereal malt beverage license issued by the city when the licensee has petitioned for and received a waiver of the distance limitation. The governing body shall grant such a waiver only following public notice and hearing.

(K.S.A. 41-2704) (1993 Code, § 3-206)

§ 3-207 LICENSE FEE.

The rules and regulations regarding license fees shall be as follows.

(a) *General retailer.* For each place of business selling cereal malt beverages at retail, \$125 per calendar year.

(b) *Limited retailer.* For each place of business selling only at retail cereal malt beverages in original and unopened containers and not for consumption on the premises, \$50 per calendar year.

Full amount of the license fee shall be required regardless of the time of the year in which the application is made, and the licensee shall only be authorized to operate under the license for the remainder of the calendar year in which the license is issued.

(K.S.A. 41-2702) (1993 Code, § 3-207)

§ 3-208 SUSPENSION OF LICENSE.

The Chief of Police, upon five days' written notice, shall have the authority to suspend such license for a period not to exceed 30 days, for any violation of the provisions of this chapter or other laws pertaining to cereal malt beverages, which violation does not, in his or her judgment, justify a recommendation of revocation. The licensee may appeal such order of suspension to the governing body within seven days from the date of such order.

(1993 Code, § 3-208)

§ 3-209 LICENSE SUSPENSION/REVOCAION BY GOVERNING BODY.

(a) (1) The governing body of the city, upon five days' written notice, to a person holding a license to sell cereal malt beverages may permanently revoke or cause to be suspended for a period of not more than 30 days such license for any of the following reasons:

(A) The licensee has violated any provisions of K.S.A. 41-2701 et seq., and amendments thereto, or any rules or regulations of the city;

(B) Drunkenness of the licensee or permitting any intoxicated person to remain in or upon the licensee's place of business;

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(C) The sale of cereal malt beverages to any person under 21 years of age;

(D) For permitting any person to mix drinks with materials purchased in any premises licensed under this article or brought into the premises for this purpose;

(E) For the sale or possession of, or for permitting the use or consumption of alcoholic liquor within or upon any premise licensed under this article; and

(F) The licensee has been convicted of a violation of the Beer and Cereal Malt Beverage Keg Registration Act.

(2) The provisions of divisions (a)(1)(D) and (a)(1)(E) above shall not apply if the place of business or premises also are currently licensed as a club or drinking establishment pursuant to the Club and Drinking Establishment Act.

(b) The city, upon five days' notice to the persons holding a license, shall revoke or suspend the license for any one of the following reasons:

(1) The licensee has fraudulently obtained the license by giving false information in the application therefor;

(2) The licensee has become ineligible to obtain a license under this chapter;

(3) The nonpayment of any license fees;

(4) Permitting any gambling in or upon the licensee's place of business;

(5) The employment of persons under 18 years of age in dispensing or selling cereal malt beverage;

(6) The employment or continuation in employment of a person in connection with the sale, serving, or dispensing of cereal malt beverages if the licensee knows such person has been, within the preceding two years, adjudged guilty of a felony or any violation of the intoxicating liquor laws of this state, another state or the United States; or

(7) There has been a violation of K.S.A. 21-4106 or K.S.A. 21-4107, prior to their repeal or K.S.A. 21-6204, and amendments thereto, (public nuisance) in or upon the licensee's place of business. (K.S.A. 41-2708) (1993 Code, § 3-209)

§ 3-210 SAME; APPEAL.

The licensee, within 20 days after the order of the governing body revoking any license, may appeal to the District Court of the county and the District Court shall proceed to hear such appeal as though

such Court had original jurisdiction in the matter. Any appeal taken under this section shall not suspend the order of revocation or suspension during the pendency of such appeal. In case of the revocation of the license of any licensee, no new license shall be issued to such person or any person acting for or on his or her behalf, for a period of six months thereafter.

(K.S.A. 41-2708) (1993 Code, § 3-210)

§ 3-211 CHANGE OF LOCATION.

If a licensee desires to change the location of his or her place of business, he or she shall make an application to the governing body showing the same information relating to the proposed location as in the case of an original application. Such application shall be accompanied by a fee of \$25. If the application is in proper form and the location is not in a prohibited zone and all other requirements relating to such place of business are met, a new license shall be issued for the new location for the balance of the year for which a current license is held by the licensee.

(1993 Code, § 3-211)

§ 3-212 WHOLESALERS AND/OR DISTRIBUTORS.

It shall be unlawful for any wholesaler and/or distributor, his, her, or its agents or employees, to sell and/or deliver cereal malt beverages within the city, to persons authorized under this article to sell the same within this city unless such wholesaler and/or distributor has first secured a license from the Director of Revenue, State Commission of Revenue and Taxation of the state authorizing such sales.

(K.S.A. 41-307 to 41-307a) (1993 Code, § 3-212)

§ 3-213 BUSINESS REGULATIONS; GENERAL PROVISIONS.

(a) No cereal malt beverages may be sold between the hours of 12:00 a.m. and 6:00 a.m.

(b) No cereal malt beverages may be sold at retail on Easter Sunday.

(c) The sale at retail of cereal malt beverage in the original package is allowed within the city on any Sunday, except Easter, between the hours of 12:00 p.m. and 8:00 p.m.

(d) The sale of cereal malt beverages for consumption on the licensed premises is authorized on Sundays in places of business licensed to sell cereal malt beverages for consumption on the premises, which businesses derive not less than 30% of their gross receipts from the sale of food for consumption on the licensed premises and which are located in the city.

(e) No private rooms or closed booths shall be operated in a place of business, but this provision shall not apply if the licensed premises are also currently licensed as a club pursuant to the club and drinking establishment act.

(f) Each place of business shall be open to the public and to law enforcement officers at all times during business hours, except that a premises licensed as a club pursuant to the club and drinking establishment act shall be open to law enforcement officers and not to the public.

(g) No licensee shall permit a person under the legal age for consumption of cereal malt beverage to consume or purchase any cereal malt beverage in or about a place of business, and no licensee shall permit a person under the legal age for consumption of cereal malt beverage to possess cereal malt beverage in or about a place of business, except that a licensee's employee who is not less than 18 years of age may dispense or sell cereal malt beverage, if:

(1) The licensee's place of business is licensed only to sell cereal malt beverage at retail in original and unopened containers and not for consumption on the premises; or

(2) The licensee's place of business is a licensed food service establishment, as defined by K.S.A. 36-501 and amendments thereto, and not less than 50% of the gross receipts from the licensee's place of business is derived from the sale of food for consumption on the premises of the licensed place of business.

(h) No person shall have any alcoholic liquor in such person's possession while in a place of business, unless the premises are currently licensed as a club or drinking establishment pursuant to the club and drinking establishment act.

(i) Cereal malt beverages may be sold on premises which are licensed pursuant to both the acts contained in K.S.A. Chapter 41, Article 27 and the club and drinking establishment act at any time when alcoholic liquor is allowed by law to be served on the premises.

(j) The place of business licensed and operating under this article shall at all times have a front and rear exit unlocked when open for business.
(1993 Code, § 3-213)

§ 3-214 PROHIBITED CONDUCT ON PREMISES.

The following conduct by a cereal malt beverage licensee, manager, or employee of any licensed cereal malt beverage establishment is deemed contrary to public welfare and is prohibited:

(a) Remaining or permitting any person to remain in or upon the premises who exposes to view any portion of the female breasts below the top of the areola or any portion of males/females pubic hair, anus, buttocks, or genitals;

(b) Permitting any employee on the licensed premises to touch, caress, or fondle the breasts, buttocks, anus, vulva, or genitals of any other employee or any patron;

(c) Encouraging or permitting any patron on the licensed premises to touch, caress, or fondle the breasts, buttocks, anus, vulva, or genitals of any employee;

(d) Performing or permitting any person to perform on the licensed premises acts of or acts which simulate:

(1) Sexual intercourse, masturbation, sodomy, or any other sexual act which is prohibited by law; or

(2) Touching, caressing, or fondling such persons' breasts, buttocks, anus, or genitals.

(e) Using or permitting any person to use on the licensed premises, any artificial devices or inanimate objects to depict any of the acts prohibited by division (d) above.

(f) Showing or permitting any person to show on the licensed premises any motion picture, film, photograph, electronic reproduction, or other visual reproduction depicting:

(1) Acts or simulated acts of sexual intercourse, masturbation, sodomy, or any sexual act which is prohibited by law;

(2) The touching, caressing, or fondling of the buttocks, anus, genitals, or the female breasts;
or

(3) Scenes in which a person displays the buttocks, anus, genitals, or the female breasts.

(g) As used in this section, the term **PREMISES** means the premises licensed by the city as a cereal malt beverage establishment and such other areas, under the control of the licensee or his or her employee or employees, that are in such close proximity to the licensed premises that activities and conduct of persons within such other areas may be viewed by persons on or within the licensed premises. (1993 Code, § 3-214)

§ 3-215 SANITARY CONDITIONS REQUIRED.

All parts of the licensed premises including furnishings and equipment shall be kept clean and in a sanitary condition, free from flies, rodents, and vermin at all times. The licensed premises shall have at least one restroom for each sex easily accessible at all times to its patrons and employees. The restroom shall be equipped with at least one lavatory with hot and cold running water, be well lighted, and be furnished at all times with paper towels or other mechanical means of drying hands and face. Each restroom shall be provided with adequate toilet facilities which shall be of sanitary design and readily cleanable. The doors of all toilet rooms shall be self-closing and toilet paper at all times shall be provided. Easily cleanable receptacles shall be provided for waste material and such receptacles in toilet rooms for women shall be covered. The restrooms shall at all times be kept in a sanitary condition and free of offensive odors and shall be at all times subject to inspection by the City Health Officer or designee.

(1993 Code, § 3-215)

§ 3-216 MINORS ON PREMISES.

(a) It shall be unlawful for any person under 21 years of age to remain on any premises where the sale of cereal malt beverages is licensed for on-premises consumption.

(b) This section shall not apply if the person under 21 years of age is an employee of the licensed establishment, or is accompanied by his or her parent or guardian, or if the licensed establishment derives not more than 30% of its gross receipts in each calendar year from the sale of cereal malt beverages for on-premises consumption.

(1993 Code, § 3-216)

ARTICLE 3: ALCOHOLIC LIQUOR

Section

- 3-301 State license required
- 3-302 Occupational tax
- 3-303 Posting of receipt
- 3-304 Hours of sale
- 3-305 Business regulations
- 3-306 Restrictions on location

§ 3-301 STATE LICENSE REQUIRED.

(a) It shall be unlawful for any person to keep for sale, offer for sale, or expose for sale or sell any alcoholic liquor as defined by the Kansas Liquor Control Act without first having obtained a state license to do so.

(b) The holder of a license for the retail sale in the city of alcoholic liquors by the package issued by the State Director of Alcoholic Beverage Control shall present such license to the City Clerk when applying to pay the occupation tax levied in § 3-302 and the tax shall be received and a receipt shall be issued for the period covered by the state license.

(1993 Code, § 3-301)

§ 3-302 OCCUPATIONAL TAX.

There is hereby levied a biennial occupation tax of \$600 on any person holding a license issued by the State Director of Alcoholic Beverage Control for the retail sale within the city of alcoholic liquors for consumption off the premises. Such tax shall be paid by the retailer to the City Clerk before business is begun under an original state license and shall be paid within five days after any renewal of a state license.

(K.S.A. 41-310) (1993 Code, § 3-302)

§ 3-303 POSTING OF RECEIPT.

Every licensee under this article shall cause the city alcoholic liquor retailer's occupation tax receipt to be placed in plain view, next to, or below the state license in a conspicuous place on the licensed premises.

(1993 Code, § 3-303)

§ 3-304 HOURS OF SALE.

(a) Pursuant to K.S.A. 41-712 and 41-2911, the sale of alcoholic liquor in the original package is allowed within the city on any Sunday, except Easter, between the hours of 12:00 p.m. and 8:00 p.m., and is allowed on Memorial Day, Independence Day, and Labor Day. The sale at retail of alcoholic liquor in the original package shall not be allowed in the city on Thanksgiving Day or Christmas Day.

(b) Except as otherwise set forth in division (a) of this section, the sale of alcoholic liquor in the original package shall not be allowed before 9:00 a.m. or after 11:00 p.m. on any day when sale thereof is permitted.

(K.S.A. 41-712) (1993 Code, § 3-304) (Ord. 510, passed 12-20-2004; Ord. 620, passed 5-2-2011)

§ 3-305 BUSINESS REGULATIONS.

It shall be unlawful for a retailer of alcoholic liquor to:

(a) Permit any person to mix drinks in or on the licensed premises unless the person is preparing or mixing samples for the purposes of conducting wine, beer, or distilled spirit tastings, or any combination thereof, as authorized by K.S.A. 41-308d, and amendments thereto;

(b) Employ any person under the age of 21 years in connection with the operation of the retail establishment;

(c) Employ any person in connection with the operation of the retail establishment who has been adjudged guilty of a felony;

(d) Furnish any entertainment in his or her premises or permit any pinball machine or game of skill or chance to be located in or on the premises;

(e) Have in his or her possession for sale at retail any bottles, cask, or other containers containing alcoholic liquor, except in the original package; or

(f) Sell, give away, dispose of, exchange or deliver, or permit the sale, gift or procuring of any alcoholic liquor to or for any person under 21 years of age.

(K.S.A. 41-713) (1993 Code, § 3-305)

§ 3-306 RESTRICTIONS ON LOCATION.

No person shall knowingly or unknowingly sell, give away, furnish, dispose of, procure, exchange, or deliver, or permit the selling, giving away, furnishing, disposing of, procuring, exchanging, or delivering of any alcoholic beverage in any building, structure or premises, for consumption in such building or upon such premises if such consumption is within 200 feet from the nearest property line of any existing hospital, school, church, or library.

(K.S.A. 41-710) (1993 Code, § 3-306)

ARTICLE 4: PRIVATE CLUBS

Section

- 3-401 License required
- 3-402 License fee
- 3-403 Business regulations

§ 3-401 LICENSE REQUIRED.

It shall be unlawful for any person granted a private club license by the state to sell or serve any alcoholic liquor authorized by such license within the city without first obtaining a local license from the City Clerk.

(1993 Code, § 3-401)

§ 3-402 LICENSE FEE.

(a) There is hereby levied a biennial license fee on each private club located in the city which has a private club license issued by the State Director of Alcoholic Beverage Control, which fee shall be paid before business is begun under an original state license and within five days before the license expires. The city license fee for a Class A club shall be \$200 and the city license fee for a Class B club shall be \$500.

(b) All applications for new or renewal city licenses shall be submitted to the City Clerk. Upon presentation of a state license, payment of the city license fee, and the license application, the City Clerk shall issue a city license for the period covered by the state license, if there are no conflicts with any zoning or alcoholic beverage ordinances of the city.

(c) The license period shall extend for the period covered by the state license. No license fee shall be refunded for any reason.

(d) Every licensee shall cause the city club license to be placed in plain view next to or below the state license in a conspicuous place on the licensed premises.

(1993 Code, § 3-402)

§ 3-403 BUSINESS REGULATIONS.

(a) No club licensed hereunder shall allow the serving, mixing, or consumption of alcoholic liquor on its premises between the hours of 2:00 a.m. and 9:00 a.m. on any day.

(b) Cereal malt beverages may be sold on premises licensed for the retail sale of cereal malt beverages for on-premises consumption at any time when alcoholic liquor is allowed by law to be served on the premises.

(c) No club membership shall be sold to any person under 21 years of age, nor shall alcoholic beverages or cereal malt beverages be given, sold, or traded to any person under 21 years of age.
(K.S.A. 41-2614) (1993 Code, § 3-403)

ARTICLE 5: DRINKING ESTABLISHMENTS

Section

- 3-501 License required
- 3-502 License fee
- 3-503 Business regulations

§ 3-501 LICENSE REQUIRED.

It shall be unlawful for any person granted a drinking establishment license by the state to sell or serve any alcoholic liquor authorized by such license within the city without first obtaining a city license from the City Clerk.

(1993 Code, § 3-501)

§ 3-502 LICENSE FEE.

(a) There is hereby levied a biennial license fee in the amount of \$500 on each drinking establishment located in the city which has a drinking establishment license issued by the State Director of Alcoholic Beverage Control, which fee shall be paid before business is begun under an original state license and within five days after any renewal of a state license.

(b) All applications for new or renewal city licenses shall be submitted to the City Clerk. Upon presentation of a state license, payment of the city license fee, and the license application, the City Clerk shall issue a city license for the period covered by the state license, if there are no conflicts with any zoning or alcoholic beverage ordinances of the city.

(c) The license period shall extend for the period covered by the state license. No license fee shall be refunded for any reason.

(d) Every licensee shall cause the city drinking establishment license to be placed in plain view next to or below the state license in a conspicuous place on the licensed premises.

(1993 Code, § 3-502)

§ 3-503 BUSINESS REGULATIONS.

(a) No drinking establishment licensed hereunder shall allow the serving, mixing, or consumption of alcoholic liquor on its premises between the hours of 2:00 a.m. and 9:00 a.m. on any day.

(b) Cereal malt beverages may be sold on premises licensed for the retail sale of cereal malt beverage for on-premises consumption at any time when alcoholic liquor is allowed by law to be served on the premises.

(c) No alcoholic beverages or cereal malt beverages shall be given, sold or traded to any person under 21 years of age.

(K.S.A. 41-2614) (1993 Code, § 3-503)

ARTICLE 6: CATERERS

Section

- 3-601 License required
- 3-602 License fee
- 3-603 Business regulations
- 3-604 Notice to Chief of Police

§ 3-601 LICENSE REQUIRED.

It shall be unlawful for any person licensed by the state as a caterer to sell alcoholic liquor by the drink, to sell, or serve any liquor by the drink within the city without obtaining a local caterer's license from the City Clerk.

§ 3-602 LICENSE FEE.

(a) There is hereby levied an annual license fee in the amount of \$25 on each caterer doing business in the city who has a caterer's license issued by the State Director of Alcoholic Beverage Control, which fee shall be paid before business is begun under an original state license and within five days after any renewal of a state license.

(b) All applications for new or renewal city licenses shall be submitted to the City Clerk. Upon presentation of a state license, payment of the city license fee, and the license application, the City Clerk shall issue a city license for the period covered by the state license, if there are no conflicts with any zoning or alcoholic beverage ordinances of the city.

(c) The license period shall extend for the period covered by the state license. No license fee shall be refunded for any reason.

(d) Every licensee shall cause the caterer license to be placed in plain view on any premises within the city where the caterer is serving or mixing alcoholic liquor for consumption on the premises.

§ 3-603 BUSINESS REGULATIONS.

(a) No caterer licensed hereunder shall allow the serving, mixing, or consumption of alcoholic liquor between the hours of 2:00 a.m. and 6:00 a.m. on any day.

(b) No alcoholic beverages or cereal malt beverages shall be given, sold, or traded to any person under 21 years of age.

(K.S.A. 41-2614)

§ 3-604 NOTICE TO CHIEF OF POLICE.

Prior to any event at which a caterer will sell or serve alcoholic liquor by the individual drink, the caterer shall provide written notice to the Chief of Police at least seven days prior to the event if the event will take place within the city. The notice shall contain the location, name of the group sponsoring the event, and the exact date and times the caterer will be serving.

ARTICLE 7: TEMPORARY PERMITS

Section

- 3-701 Permit required
- 3-702 Permit fee
- 3-703 City temporary permit
- 3-704 Permit regulations

§ 3-701 PERMIT REQUIRED.

It shall be unlawful for any person granted a temporary permit by the state to sell or serve any alcoholic liquor within the city without first obtaining a local temporary permit from the City Clerk.

§ 3-702 PERMIT FEE.

(a) There is hereby levied a temporary permit fee in the amount of \$25 per day on each group or individual holding a temporary permit issued by the State Director of Alcoholic Beverage Control authorizing sales within the city, which fee shall be paid before the event is begun under the state permit.

(b) Every temporary permit holder shall cause the temporary permit receipt to be placed in plain view on any premises within the city where the holder of the temporary permit is serving or mixing alcoholic liquor for consumption on the premises.

§ 3-703 CITY TEMPORARY PERMIT.

(a) It shall be unlawful for any person to conduct an event under a state issued temporary permit without first applying for a local temporary permit at least seven days before the event. Written application for the local temporary permit shall be made to the City Clerk and shall clearly state:

- (1) The name of the applicant;
- (2) The group for which the event is planned;
- (3) The location of the event;
- (4) The date and time of the event; or
- (5) Any anticipated need for police, fire or other municipal services.

(b) Upon presentation of a state temporary permit, payment of the city's temporary permit fee and a written application as provided for in division (a) above, the City Clerk shall issue a local temporary permit to the applicant if there are no conflicts with any zoning or other ordinances of the city.

(c) The City Clerk shall notify the Chief of Police whenever a temporary permit has been issued and forward a copy of the permit and application to the Chief of Police.

§ 3-704 PERMIT REGULATIONS.

(a) No temporary permit holder shall allow the serving, mixing, or consumption of alcoholic liquor between the hours of 2:00 a.m. and 9:00 a.m. at any event for which a temporary permit has been issued.

(b) No alcoholic beverages shall be given, sold or traded to any person under 21 years of age.

ARTICLE 8: SPECIAL EVENTS CMB PERMITS

Section

- 3-801 Special event CMB permits; permit required
- 3-802 Same; permit fee
- 3-803 Same; city special event permit
- 3-804 Same; permit regulations

§ 3-801 SPECIAL EVENT CMB PERMITS; PERMIT REQUIRED.

It shall be unlawful for any person to sell or serve any CMB at any special event within the city without first obtaining a local special event permit from the City Clerk.

(K.S.A. 41-2703)

§ 3-802 SAME; PERMIT FEE.

(a) There is hereby levied a special event permit fee in the amount of \$75 on each group or individual, which fee shall be paid before the event begins. Such fee shall include the \$25 fee to be remitted to the Division of Alcohol Beverage Control.

(b) Every special event permit holder shall cause the permit receipt to be placed in plain view on any premises within the city where the holder of the special event permit is serving CMB for consumption on the premises.

(K.S.A. 41-2702)

§ 3-803 SAME; CITY SPECIAL EVENT PERMIT.

(a) It shall be unlawful for any person to sell or serve CMB at a special event without first applying for a local special event permit at least seven days before the event. Written application for the local special event permit shall be made to the City Clerk on the form used for annual cereal malt beverage sales or, when available, the special event CMB permit application approved by the Attorney General, as directed by the City Clerk. In addition to any other information required, the applicant shall provide the following:

- (1) The name of the applicant;

- (2) The group for which the event is planned;
- (3) The location of the event;
- (4) The date and time of the event; and
- (5) Any anticipated need for police, fire, or other municipal services.

(b) Upon meeting the requirements to obtain a special event permit, the City Clerk shall issue a local special event permit to the applicant if there are no conflicts with any zoning or other ordinances of the city.

(c) The City Clerk shall notify the Chief of Police whenever a special event permit has been issued and forward a copy of the permit and application to the Chief of Police.

§ 3-804 SAME; PERMIT REGULATIONS.

(a) No special event permit holder shall allow the serving of CMB between the hours of 12:00 a.m. and 6:00 a.m. at any event for which a special event permit has been issued.

(b) No CMB shall be given, sold, or traded to any person under 21 years of age.

(c) No more than four special event permits may be issued in a calendar year to the same applicant.

(d) No special event permit issued hereunder may be transferred or assigned to any other vendor.

(e) All local ordinances and state statutes for the sale and consumption of CMB apply to holders of special event permits.

(K.S.A. 41-2703)

ARTICLE 9: KEG REGISTRATION

Section

- 3-901 Definitions
- 3-902 Retailer duties
- 3-903 Purchaser requirements
- 3-904 Identification requirements
- 3-905 Deposit refund
- 3-906 Violations

§ 3-901 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BEER. A beverage, containing more than 3.2% alcohol by weight, obtained by alcoholic fermentation of an infusion or concoction of barley, or other grain, malt, and hops in water and includes beer, ale, stout, lager beer, porter, and similar beverages having such alcoholic content.

CEREAL MALT BEVERAGE. Any fermented, but undistilled, liquor brewed or made from malt or from a mixture of malt or malt substitute, but does not include any such liquor which is more than 3.2% alcohol by weight.

KEG. A reusable container of beer or cereal malt beverage having a liquid capacity of four or more gallons.

LEGAL AGE FOR CONSUMPTION. Twenty-one years of age.

PERSON. Any natural person, corporation, partnership, limited liability company, trust, or association.

PROPER PROOF OF IDENTIFICATION. A photographic motor vehicle operator's license, a valid passport, a United States military identification card, a state photographic non-driver's identification card, or other official or apparently official document, containing a photograph, signature, and birth date of the person.

RETAILER. A person who sells at retail, or offers for sale at retail, beer, or cereal malt beverage for use or consumption and not for resale in any form, and includes sales of beer or cereal malt beverage in a keg returnable to the seller. Such terms shall not refer to or mean sales by a distributor or sales by one retailer to another.

SELL or SELL AT RETAIL. Sales of beer or cereal malt beverage for use or consumption and not for resale in any form, and includes sales of beer or cereal malt beverage in a keg returnable to the seller. Such terms shall not refer to or mean sales by a distributor or sales by one retailer to another.

§ 3-902 RETAILER DUTIES.

A retailer, or retailer's employee or agent, prior to or at the time of any sale at retail of a keg, shall:

- (a) Affix or cause to be affixed to the keg a keg identification tag, in accordance with the provisions of § 3-904;
- (b) Require the purchaser to exhibit proper proof of identification. If the purchaser fails to provide such proof of identification, the retailer shall refuse to sell the keg to such person;
- (c) Require the purchaser to sign a declaration and receipt for the keg in the form provided for in § 3-904;
- (d) Record on the declaration the keg identification tag number, the date of sale, the purchaser's name and address, and the type, number, and expiration date of the purchaser's identification;
- (e) Inform the purchaser, that any deposit paid by the purchaser for the keg, if required, shall be forfeited if the keg is returned without the original keg identification tag intact and readable;
- (f) Require each purchaser of any such keg to acknowledge as part of the declaration that persons under 21 are not of legal age for consumption of beer or cereal malt beverage and that the declaration is subject to inspection by law enforcement personnel; and
- (g) Provide a copy of the declaration and receipt to the purchaser.

§ 3-903 PURCHASER REQUIREMENTS.

Any person who purchases a keg or the contents thereof shall:

- (a) Be of legal age to purchase, possess, or use beer and cereal malt beverage;
- (b) Provide proof of identification and such other information as the retailer may require in accordance with § 3-902;

(c) Sign a declaration and receipt in the form required by § 3-902;

(d) Not allow any person under the age of 21 to consume the keg contents except as allowed by law;

(e) Not remove, obliterate, or allow to be removed or obliterated, the keg identification tag required by § 3-902; and

(f) Maintain a copy of the declaration and receipt with the keg during the time the keg is in the purchaser's possession or control.

§ 3-904 IDENTIFICATION REQUIREMENTS.

(a) The keg identification tag required under this article shall be in the form of a uniquely numbered and coded tag or label, prescribed and furnished by the City Clerk. Such tag or label is used for a single sale of the marked keg and is to be removed from the keg by the retailer upon return of the keg to the retail seller and maintained with the records of the sale. Such tags shall be fabricated and made attachable in such a manner as to make the tag removable for the purpose of the cleaning and reusing the keg by a manufacturer.

(b) The declaration and receipt required shall be on a form prescribed and furnished by the City Clerk and shall include the information as required by §§ 3-902 and 3-903 thereof, and may include such other identifying information as the City Clerk may deem necessary and appropriate.

(c) Retailers may apply for and receive keg identification tags and declaration and receipt forms from the City Clerk upon submittal of an application on a form as prescribed by the City Clerk and such proof as may be required by the City Clerk that the applicant is duly licensed to sell beer or cereal malt beverages in a keg. The City Clerk may charge a reasonable fee for furnishing the tags and forms required by this article not to exceed the actual cost of furnishing such tags and forms.

(d) The retailer shall retain a copy of all such declarations and receipts required on the retailer's licensed premises for a period of six months. Such declarations and receipts shall be available for inspection and copying by any law enforcement officer during normal business hours for the purpose of identifying persons suspected of a violation of law.

(e) Falsifying any information on a declaration and receipt shall be a violation of this section.

§ 3-905 DEPOSIT REFUND.

No retailer may refund any deposit upon return of a keg that:

(a) Does not have the required identification tag; or

(b) Has an identification tag that has been defaced to the extent that the information contained on the tag cannot be read.

§ 3-906 VIOLATIONS.

(a) It shall be unlawful for any person to:

- (1) Remove from a keg all or part of a keg identification tag required pursuant to this article;
- (2) Deface a keg identification tag to the extent the information contained on the tag cannot be read;
- (3) Fail to return a keg within ten days of the due date; or
- (4) Possess a keg that does not have the keg identification tag.

(b) Provided that, the provisions of this section shall not apply to a manufacturer, distributor, or retailer, and division (a)(4) above shall not apply to any person who finds a discarded keg on such person's property.

CHAPTER IV: BUILDINGS AND CONSTRUCTION

Article

- 1. FIRE LIMITS**
- 2. BUILDING CODE**
- 3. ELECTRICAL CODE**
- 4. PLUMBING AND GAS-FITTING CODE**
- 5. MOVING BUILDINGS**
- 6. DANGEROUS AND UNFIT STRUCTURES**
- 7. MOBILE HOMES**

ARTICLE 1: FIRE LIMITS

[Reserved]

ARTICLE 2: BUILDING CODE

Section

- 4-201 Definitions
- 4-202 International Building Code incorporated
- 4-202A International Residential Code incorporated
- 4-203 Additional provisions
- 4-204 Building Official; powers; duties
- 4-205 Building Inspector; appointment
- 4-206 Same; duties
- 4-207 Same; powers
- 4-208 Same; right of entry
- 4-209 Clarification; modification
- 4-210 Building permit required; application; approval
- 4-211 Same; application information required
- 4-212 Same; plans and specifications
- 4-213 Same; fees
- 4-214 Same; posting
- 4-215 Certificate of approval
- 4-216 Inspections of building; layout of building; foundations and footings; notice to Inspector
- 4-217 Request for inspection
- 4-218 Inspection fee
- 4-219 Builder or building contractor defined
- 4-220 Builder's or building contractor's license required; building permits; unlawful acts
- 4-221 Same; application; granting
- 4-222 Same; license fees; conditions; renewal; unlawful acts
- 4-223 Builder's or building contractor's bond required; conditions; approval; rights reserved
- 4-224 Insurance
- 4-225 License suspension; revocation; appeal; unlawful acts
- 4-226 Work by property owners
- 4-227 Liability
- 4-228 Severability

§ 4-201 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Cunningham - Buildings and Construction

(a) Whenever the word *MUNICIPALITY* is used in the Building Code, it shall be held to mean the City of Cunningham, Kansas.

(b) Whenever the term *CORPORATION COUNSEL* is used in the Building Code, it shall be held to mean the City Attorney of the City of Cunningham.

(c) Whenever the term *BUILDING OFFICIAL* is used in the Building Code, it shall be held to mean the city's authorized designee.
(1993 Code, § 4-201)

§ 4-202 INTERNATIONAL BUILDING CODE INCORPORATED.

(a) There is hereby adopted and incorporated by reference, for the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, use, occupancy, location, and maintenance of buildings and structures, the International Building Code, 2015 Edition, as recommended by the International Code Council, such code being made as a part of the ordinances and code of the city as if the same had been set out in full herein, all as authorized and in the manner prescribed by K.S.A. 12-3009 through 12-3012, including any amendments thereto. One copy of the International Building Code, 2015 Edition, shall be marked or stamped "Official Copy as Incorporated by the Code of the City of Cunningham", and shall be filed with the City Clerk to be open to inspection and available to the public at all reasonable hours of business.

(b) Any person violating any provision of such code shall be punished as provided in § 1-116 of this code.
(1993 Code, § 4-202) (Ord. 605, passed 4-28-2010)

§ 4-202A INTERNATIONAL RESIDENTIAL CODE INCORPORATED.

(a) *Adoption.* The 2015 Edition of the International Residential Code is approved and adopted by the governing body of the city of and the same is incorporated by reference as fully as if set out herein.

(b) *Official copies.* One copy of the 2015 Edition of the International Residential Code in book form shall be filed with the City Clerk to be opened for inspection and available to the public at all reasonable business hours.
(Ord. 605, passed 4-28-2010)

§ 4-203 ADDITIONAL PROVISIONS.

The following sections of this article are in addition to the provisions of the standard code incorporated by reference in § 4-202.
(1993 Code, § 4-203)

§ 4-204 BUILDING OFFICIAL; POWERS; DUTIES.

(a) This and other articles of the city relating generally to building and structures shall be administered and enforced by the Mayor. The Mayor shall act as Chief Building Official and may assume the responsibilities of or with the consent and approval of the governing body appoint a Building Inspector and such other assistants as may be advisable for the issuance of building permits and the inspection of building work.

(b) The City Clerk shall prepare such application, permit, inspection, and record forms as may be required for the purposes of the article. The City Clerk, with the consent and approval of the governing body, may make and promulgate the necessary rules and regulations to obtain conformity with this article pertaining to the making of applications for building permits, issuing of building permits, and inspecting of buildings and building works.

§ 4-205 BUILDING INSPECTOR; APPOINTMENT.

The Mayor may assume the responsibilities of or appoint some qualified individual to be and perform the duties of Building Inspector as may be required, subject to the consent and approval of the governing body.

§ 4-206 SAME; DUTIES.

The Building Inspector shall have the following duties:

(a) To enforce all regulations relating to construction, alteration, repair, removal, and demolition of building and structures;

(b) May permit, with the approval of the governing body, on the basis of duly authenticated reports from recognized sources, the use of new materials or modes of construction, not provided for in this article, and may, for the purpose of carrying out the intent of this article adopt an accepted standard of material or workmanlike practices of federal or state bureaus, national, technical organizations, or fire underwriters;

(c) To examine all buildings in the process of erection, construction, alteration, or relocation in the city for the purpose of determining whether the work is in compliance with the permit given and in compliance with the regulations of the city pertaining to such work, including zoning regulations; and

(d) To keep comprehensive records of applications, of permits or certificates issued, of inspections made, of reports rendered, and of notices or orders issued. All such records shall be open to public inspection during stated office hours, but shall not be removed from the office of the Building Official without his or her written consent.

§ 4-207 SAME; POWERS.

The Building Inspector shall have the following powers:

(a) To enter any building or structure or premises at any reasonable hour, whether complete or in the process of erection, to perform the duties contained in this chapter;

(b) To adopt and enforce all such prudent emergency measures as he or she may deem necessary and expedient for the public safety under the laws of the city; and

(c) May cause any work done in violation of this chapter to be discontinued until he or she shall have satisfactory evidence that the work will be done in accordance with the building regulations of the city, subject to the right of any builder or owner to appeal to the governing body.

§ 4-208 SAME; RIGHT OF ENTRY.

The Building Inspector, or his or her agent, upon proper identification, shall have authority to enter any building, structure or premises at any reasonable hour to perform his or her duties as set out in this chapter.

§ 4-209 CLARIFICATION; MODIFICATION.

(a) The governing body shall be the final determiner of the scope and meaning of all provisions of the Building Code which may be unclear, ambiguous, or requiring interpretation.

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

§ 4-210 BUILDING PERMIT REQUIRED; APPLICATION; APPROVAL.

It shall be unlawful for any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure or to erect, install, enlarge, alter, repair, remove, convert, or replace any electrical, gas, mechanical, or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done within the city without a building permit being first obtained therefor from the City Clerk, after approval by the Chief Building Official or his or her duly authorized assistant. The application for such permit shall be made and the permit obtained before work is commenced upon any building or structure or the foundation thereof, or before the removal of any building begins.

§ 4-211 SAME; APPLICATION INFORMATION REQUIRED.

(a) A building permit shall be issued upon an application in writing to the office of City Clerk on a form or forms provided for the purpose. This application shall, among other things, disclose the following:

- (1) The name of the owner of the lot or tract of ground;
- (2) The location of the building or structure;
- (3) The building work proposed;
- (4) The outside dimensions of the building by floors and dimensions of the basement (if any);
- (5) The class of occupancy;
- (6) The class of construction;
- (7) The kind of materials to be used for walls, floors, ceilings, roofs, and foundations;
- (8) The estimated cost of the work;
- (9) The date work will commence;
- (10) Expected date of completion;
- (11) Name and address of contractor or contractors doing the work; and
- (12) Such other information as may be pertinent to the issuance of the required permit.

(b) (1) An application for a building permit shall be signed by the owner or his or her duly authorized agent, or a building contractor licensed by the city. If the application is made by the owner or his or her agent, it shall contain the name or names of the licensed contractor or contractors doing the work described, or a building permit may be issued to the owner upon his or her application disclosing satisfactory evidence that the proposed work will be performed by the owner, himself or herself and not by a licensed contractor, and likewise subject to the final approval of the Building Inspector for work performed.

(2) If an application for a building permit indicates that it is for commercial or residential roofing services, including construction, installation, renovation, repair, maintenance, alteration, or waterproofing, the application shall include the contractor's name, the contractor's place of business within the city (and home office if not a resident), the contractor's state registration number as issued

under the Kansas Roofing Registration Act (K.S.A. 50-6,121 et seq.), and shall also be signed by the roofing contractor or contractor's authorized agent. Provided, however, that, this division (b)(2) shall not apply to:

(A) An actual owner of commercial or residential property who physically performs, or has employees who perform, roofing services on such owner's own dwelling or other structures located on the residential property without the assistance of a registered roofing contractor;

(B) To those persons identified in K.S.A. 50-6,129(a)(1:8), and amendments thereto; or

(C) To an "exempt general contractor", as defined in K.S.A. 50-6,122, and amendments thereto.

(3) If the application for a building permit indicates that it involves renovation, repairing or painting of a home or child-occupied facility, including day care centers and schools, built before 1978 and will disturb six square feet of painted interior surfaces or 20 square feet of painted exterior surfaces, the contractor performing the services must furnish proof of state certification as a licensed renovation firm or renovator. Provided, however, that this division (b)(3) does not apply to a home owner performing work on an owner-occupied residence. In addition, this division (b)(3) does not apply to any other exception or exemption set forth in the Kansas Department of Health and Environment Renovation, Repair and Painting Rule, as described in K.A.R. 28-72-1:54 and in 40 C.F.R. part 745, and amendments thereto.

(c) Upon approval of the completed application, including, if required, the verification of state roofer registration or other state certification, and a determination that a permit should be issued, the Chief Building Official or his or her assistant shall issue a permit to the owner or contractor authorizing the building work covered by the application. If applicable, the permit shall include the roofer registration number or any other certification or license number issued by the state.

(d) Any permit issued under this section shall be valid and subsisting for a period of not more than six months from the date of issuance unless the permittee shall have commenced, within the period so limited, the building work authorized by such permit. **BUILDING WORK COMMENCED**, for the purpose of this section, shall mean the beginning of building work other than the preparation of plans or the staking out of the building location or the letting of a building contract.

§ 4-212 SAME; PLANS AND SPECIFICATIONS.

Whenever an application for a building permit is made, the Chief Building Official may, if he or she finds it necessary to determine whether building work described in the application will comply with the laws pertaining to such work, require that the applicant file a written description or drawing of the proposed building as may be prepared for the purpose. If such drawing or description is insufficient for the purposes of determining whether a permit should be issued, the Building Official may require the

applicant to file complete architectural and engineering plans and specifications for such building, or any part thereof, as may be necessary for the Inspector to determine compliance with this article. The filing of such plans and specifications and the approval thereof in connection with an application for a permit shall not in any way affect the authority of the city to deny or issue a permit, or to inspect any building work for conformity with this article.

§ 4-213 SAME; FEES.

The fee for a building permit shall be as set by the city, however no fee shall be required to obtain a permit where the total estimated cost, the reasonable value of all services, labor and materials required, is under an amount set by the city. The building permit fee for construction or related items as required by § 4-210 shall be \$25 if the total estimated cost as defined above is less than \$1,000. Said fee shall be \$50 if the total estimated cost as defined above is equal or greater than \$1,000. The fee herein shall be paid to the City Clerk upon obtaining a building permit and the same shall be credited to the General Operating Fund of the city.

§ 4-214 SAME; POSTING.

A copy of the building permit shall be kept on the premises for public inspection during the performance of the work and until the completion of the same. The Building Inspector may require a certified copy of the approved plans to be kept on the premises at all times from the commencement of the work to the completion thereof.

§ 4-215 CERTIFICATE OF APPROVAL.

Upon the completion of any work under a building permit, the Chief Building Official, the Building Inspector or his or her designee is authorized to issue a certificate of approval for the occupancy and use of the building or structure. The certificate shall show the number of inspections made and the orders and corrections required during the course of the work. A copy of such certificate shall be given the owner.

§ 4-216 INSPECTIONS OF BUILDING; LAYOUT OF BUILDING; FOUNDATIONS AND FOOTINGS; NOTICE TO INSPECTOR.

(a) The contractor or builder having a permit for new construction, or additions to existing buildings, shall notify the Chief Building Official or Building Inspector immediately upon the marking or laying out of the site and foundation for such work. The Official or Inspector shall inspect the layout for conformity with this article and with respect to lot lines, setbacks, and location of the proposed buildings to determine conformity with the city zoning regulations. In case of doubt respecting the required location, the Chief Building Official may require an official survey of the lot lines to determine conformity, at the expense of the permit holder.

(b) Upon completion of the excavation for the building foundation and footings and the construction of the necessary forms thereof and before the foundation and footings are poured or laid, the Official or

Inspector shall be notified as in the first case, and it shall be his or her duty to inspect all such work for conformity with laws respecting location of the building foundations and footings.

(c) The Building Inspector shall during the course of all building make such other inspections as may be directed by the Chief Building Official to be made during any successive stage of the construction or other work covered by a permit in order to secure compliance with laws pertaining thereto.

§ 4-217 REQUEST FOR INSPECTION.

Upon the completion of any building construction work covered by this article, it shall be the duty of the person doing such work to notify the Building Inspector and request that it be inspected; after which such work shall be inspected promptly as hereinafter provided.

§ 4-218 INSPECTION FEE.

An initial inspection fee of \$150 and an inspection fee of \$75 for subsequent inspections required shall be paid before any building or construction work will be approved or a certificate of approval issued.

§ 4-219 BUILDER OR BUILDING CONTRACTOR DEFINED.

(a) A **BUILDER** or **BUILDING CONTRACTOR** for purposes of this article shall be any person, firm, co-partnership, corporation, association, or any combination thereof, whether a resident or not of the city:

(1) Who or which undertakes with or for another, for a fixed sum, price, fee, or any compensation other than wages, to build, construct, alter, repair, add to, wreck or move any building or structure (or any portion thereof), or any sidewalk, driveway entrance, or structure in any street, or any advertising sign, panel poster or billboard, or any other structure, in the city, for which a building or construction permit may now or hereafter be required by the laws of the city;

(2) Who or which advertises or represents himself, herself, or itself to the public to have the capacity or ability to undertake, or submit a bid or offer to build, construct, alter, repair, add to, or wreck, remove, restore, or replace any building, structure, or construction work or any portion thereof; or

(3) Who or which builds, constructs, alters, adds to or wrecks any buildings or structures either on his or her own or other property for purposes of sale or speculation.

(b) A **BUILDER** or **BUILDING CONTRACTOR** as defined shall not mean or include:

(1) Any subcontractor, except for a roofing contractor, working under the supervision of a general contractor;

(2) Any plumbers, gas fitters, electricians, or other specialized occupation for which special licenses or bonds are required by other city laws;

(3) Any owner or his or her authorized agents or employees making ordinary repairs to his, her, or its own building or structure not involving the structural parts of the building for which a permit is not required or on which a contractor, as defined, is not required, employed or engaged to perform;

(4) Any property owner personally performing any improvements, alterations, or building construction within or upon his or her own residence and intended for his or her own personal use and permanent occupancy; provided, the owner shall satisfy the Building Official as to his or her ability to perform such work secure a permit, pay required fees, do work in accordance with this article, and apply for an inspection and receive approval. Personal building construction by an owner under this section shall be by himself, herself, for himself or herself on his or her own residence, without compensation and no person shall be employed to assist him or her in any way on such work, except a builder or building contractor licensed by the city; or

(5) Any person engaged in construction work not involving a total cost of greater than an amount as set by the city, exclusive of labor.

§ 4-220 BUILDER’S OR BUILDING CONTRACTOR’S LICENSE REQUIRED; BUILDING PERMITS; UNLAWFUL ACTS.

(a) Each builder or building contractor shall before entering upon any building or construction work subject to regulation by city laws, apply to the City Clerk for a builder’s or building contractor’s license and receive the same as hereinafter provided and have in his or her possession a valid license authorizing him, her or it to engage in the trade or occupation of a builder or building contractor in the city.

(b) No permit for any building or construction work shall be issued for any such work to be performed by a builder or building contractor, as defined, who has not first obtained a license upon making a proper application and payment of the license fee as required.

(c) It shall be unlawful for any person, firm, company, association, or corporation to enter into a contract or agreement with another so as to bring himself, herself, or itself under the definition of builder or building contractor herein, or to perform any work as a builder or building contractor or any work under a contract for any work involving the construction, wrecking or moving of any building, without first having obtained a builder’s or building contractor’s license issued by the city.

§ 4-221 SAME; APPLICATION; GRANTING.

(a) Application for a builder’s or building contractor’s license shall be made upon a form to be supplied by the city which shall disclose the name of the applicant, his or her place of business in the city (and home office if a non-resident), the kind of contracting work engaged in (as general contracting, roofing, siding, masonry, plastering, lathing, excavating, waterproofing, metal work, foundation work, sign hanging, cement work and painting and paper hanging, house wrecking, or moving and the like), the length of time engaged in such work and places where work has been performed within the past two

years. The application shall be signed by the builder or building contractor or his or her authorized agent. The applications shall be, by the Chief Building Official, referred to the governing body at its next meeting for action thereon. Such license shall be issued by the City Clerk, upon payment of the fees hereinafter provided after approval of the governing body.

(b) If the applicant is in the business of a roofing contractor, as defined by the Kansas Roofing Registration Act (KRRRA), K.S.A. 50-6,121 et seq., and amendments thereto, the applicant shall be required to have a valid state registration as required under the KRRRA and shall present such certificate to the City Clerk when applying for a builder's or building contractor's license. No such license shall be issued until it is verified that the roofing contractor is in good standing pursuant to the KRRRA. Provided, however, that this division (b) does not apply to an "exempt general contractor" as defined in K.S.A. 50-6,122, and amendments thereto.

§ 4-222 SAME; LICENSE FEES; CONDITIONS; RENEWAL; UNLAWFUL ACTS.

(a) (1) The following license fees shall be paid for the calendar year or major fraction thereof:

(A) General builder or building contractor, who shall qualify to engage in more than one kind of contract work, except house moving, \$25;

(B) Limited builder or building contractor, who shall qualify to engage in not more than one kind of contract work, \$25;

(C) House wreckers or movers, \$25;

(D) Sign hangers and panel posters, \$25; and

(E) Roofing contractor, \$25.

(2) Any license issued on or after July 1 of each year shall be issued upon payment of one-half the annual license fee.

(b) Each such license shall set forth the kind of contract work in which the licensee may engage. The licensee shall display his or her license at any place where he or she may be engaged in contract work or produce the same on demand of any city officer. All licenses shall be renewable annually as in the case of an original license on or before January 1 of the year for which issued.

(c) It shall be unlawful for any person, firm or corporation to contract for any kind of work covered by this article without having a valid license issued by the city to perform such contracts.

§ 4-223 BUILDER'S OR BUILDING CONTRACTOR'S BOND REQUIRED; CONDITIONS; APPROVAL; RIGHTS RESERVED.

(a) Before any license shall be issued, to any builder or building contractor required by this article to obtain a license and pay a fee to the city, the builder or building contractor shall secure and file with

the City Clerk a good and sufficient corporate surety bond in the principal sum of \$10,000 conditioned that the principal named therein shall faithfully and fully observe all laws of the city relating to the business or occupation for which a license is desired and further conditioned to hold and save the city harmless and free of claims for loss or damage to persons or property, or from damage, injury or destruction of property belonging to the city, resulting from, or arising out of, the negligence or failure of the principal or any of his, her, or its employees, agents, servants to use due care or diligence respecting any opening or excavation made in, or adjacent to any street, alley or public ground in the city, or any materials stored, placed or used in any such places, or the operation or use of any vehicle, machinery, or equipment in the streets, alleys or public grounds in connection with the business or occupation licensed. Each such bond shall be issued by a company authorized to do business in the state and shall be executed by an agent of the company residing in the county and further conditioned that in the event of cancellation or expiration that the company or agent will give ten days' notice of such fact to the City Clerk. Each such bond shall be approved as to form by the City Attorney and approved as to surety by the City Treasurer and the approval thereof shall be endorsed on the bond by the City Attorney and by the Mayor over their signatures.

(b) Each bond shall be dated to run from the first day of any license issued by the city to the principal and may cover a period of not to exceed two years. No bond shall be renewed by an extension certificate but a new bond shall be filed by the principal for each successive period following the renewal thereof. The city reserves the right to furnish the form of all surety bonds as may be required by this article.

§ 4-224 INSURANCE.

In addition to obtaining a corporate surety bond as required by § 4-223, a builder or building contractor must procure and maintain a liability insurance policy in the amount of \$100,000 for the death or injury of any one person and \$300,000 for the death or injury of any number of persons in any one accident and \$50,000 for property damage in any one accident. Such policies of insurance shall be issued by some insurance company authorized to do business in the state. A builder or building contractor may qualify as to the insurance requirements by filing a certificate with the City Clerk executed by the resident agent of such company stating that the required policy of insurance has been issued by such company for the purpose required by this article and that such insurer will not cancel the policy, except upon giving 30 days' notice in writing to the city; and that the certificate shall be filed for an annual period beginning January 1 and ending December 31 of such year.

§ 4-225 LICENSE SUSPENSION; REVOCATION; APPEAL; UNLAWFUL ACTS.

(a) The license of any builder or building contractor may be suspended temporarily, for a period of not to exceed 30 days at any one time, by the Chief Building Official upon his or her own motion or upon a complaint of the City Building Inspector. Notice shall be given in writing to such builder or building contractor giving reasonable notice of a time of hearing of the complaint or the matter alleged against such builder or building contractor involving any one or more of the following:

- (1) Misrepresentation of a material fact by applicant in obtaining a license;
- (2) Use of license to obtain a building permit for another;
- (3) Failure or neglect to observe conditions of permit authorizing encumbering of streets or sidewalks for safety of public;
- (4) Performance of any building or construction work without a permit where one is required by law; or
- (5) Willful disregard of any violation of the building and construction laws, or failure to comply with any lawful order of the city Building Inspector.

(b) Any licensee may within 15 days appeal in writing to the governing body from any order of the Chief Building Official suspending his or her license for its final decision thereon. The governing body may upon such hearing terminate such suspension within not more than 30 days thereafter, or may revoke such license. If any license shall be revoked, the builder or building contractor shall not be eligible for a new license during a period of six months thereafter. No fee shall be refunded in event of the suspension or revocation of any contractor's license.

(c) It shall be unlawful to engage in the occupation or trade of builder or building contractor during the time any license of such builder or building contractor has been suspended or revoked.

§ 4-226 WORK BY PROPERTY OWNERS.

Nothing herein contained shall prohibit any property owner from personally performing any building or construction work within and upon his or her own residence and intended for his or her personal use and permanent occupancy; provided, the owner shall satisfy the Building Inspector as to his or her ability to perform such work, secure a permit, pay required fees, do work in accordance with this article, and apply for an inspection and receive a certificate of approval. Personal building or construction performed by an owner under this section shall be by himself, herself, for himself or herself on his or her own residence, without compensation and no person shall be employed to assist him or her in any way on such work, except a builder or building contractor licensed by the city.

(1993 Code, § 4-204)

§ 4-227 LIABILITY.

This article shall not be construed to relieve from any liability or lessen the liability of any person performing any activity connected herewith, nor shall the city be held as assuming any liability by reason of any inspection authorized herein, by reason of any certificate of inspection issued by it or by reason of any permit or license granted herein.

(1993 Code, § 4-205)

§ 4-228 SEVERABILITY.

If any section of the International Building Code or of this article shall be held unconstitutional or otherwise invalid by any court of competent jurisdiction, then such section shall be considered separate and apart from the remaining sections, the section to be completely severable from the remaining provisions which shall continue in full force and effect.

(1993 Code, § 4-206)

ARTICLE 3: ELECTRICAL CODE

Section

- 4-301 Definitions
- 4-302 Adoption of Electrical Code by reference
- 4-303 Additional provisions
- 4-304 Building Official; authority
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§ 4-301 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPROVED. Approved by the Chief Building Official, the Electrical Inspector, or his or her designee.

AUTHORIZED PERSON. Any individual, firm, or corporation who or which is licensed under the provisions of this article to do the work as permitted under the specified provisions of this article.

CITY. The territory within the corporate limits of this city.

CONDUCTOR. A wire or cable or other form of metal suitable for carrying the electric current or potential.

ELECTRICAL CONSTRUCTION OR INSTALLATION. Includes all work and materials used in installing, maintaining, or extending a system of electrical wiring and all appurtenances, apparatus, or equipment used in connection therewith, inside or attached to any building, structure, lot, or premises, except industrial plants where full-time maintenance is provided and other agencies providing inspections of installations and facilities. **ELECTRICAL CONSTRUCTION** shall not be held to mean or include any of the following:

(1) The replacement of lamps, fuses, bulbs, or the connection of portable electrical equipment to suitable permanently installed receptacles and replacement of receptacles and switches, lighting fixtures, and apparatus where no changes or alterations are made to the wiring;

(2) Any work involved in the manufacturing, repair, or testing of any electrical equipment or apparatus, but not including any permanent wiring; or

(3) Any work in industrial establishments where inspections come under the scope of other inspection agencies.

EQUIPMENT. Conductors, materials, fittings, devices, appliances, fixtures, apparatus, motors, and the like, used as a part of or in connection with an electrical installation.

INSPECTOR. The Chief Building Official or any individual who has been appointed by the city as Electrical Inspector.

PERSON. A natural person, his or her heirs, executors, administrators, or assigns, and also includes a firm, partnership, or corporation, its or their successors, assigns, or the agent of any of the aforesaid.

SPECIAL PERMISSION. The written consent of the Chief Building Official or the Electrical Inspector.

SPECIAL RULING. A written ruling filed in the office of the Chief Building Official or the Electrical Inspector.
(1993 Code, § 4-301)

§ 4-302 ADOPTION OF ELECTRICAL CODE BY REFERENCE.

(a) The standard code known as the National Electrical Code of 2014, a publication of the National Fire Protection Association, the same being a standard code for the installation of electrical wiring and apparatus and available in book and pamphlet form is hereby incorporated by reference herein and made a part of this article as authorized and in the manner prescribed by K.S.A. 12-3009:3012. One copy shall be marked or stamped “Official Copy as Incorporated by the Code of the City of Cunningham”, and shall be filed with the City Clerk to be open to inspection and available to the public at all reasonable hours of business.

(b) Any person violating any provision of such code shall be punished as provided in § 1-116 of this code.
(1993 Code, § 4-302)

§ 4-303 ADDITIONAL PROVISIONS.

The following sections of this article are in addition to the provisions of the standard code incorporated by reference in § 4-302.
(1993 Code, § 4-303)

§ 4-304 BUILDING OFFICIAL; AUTHORITY.

The person designated by the city shall be responsible for the administration and enforcement of this article and appointment of an Electrical Inspector in accordance with § 4-204 of this chapter, which shall apply in a like manner to this article.

§ 4-305 ELECTRICAL INSPECTOR; APPOINTMENT.

The person designated by the city may assume the responsibilities of or appoint some qualified officer or employee of the city to be and perform the duties of Electrical Inspector as may be required, subject to the consent and approval of the governing body.

§ 4-306 SAME; DUTIES.

The Electrical Inspector shall have the following duties:

(a) To enforce all regulations relating to electrical construction, alteration, repair, or removal;

(b) May permit, with the approval of the governing body, on the basis of duly authenticated reports from recognized sources, the use of new materials or modes of electrical construction, not provided for in this article, and may, for the purpose of carrying out the intent of this article adopt an accepted standard of material or workmanlike practices of federal or state bureaus, national, technical organizations, or fire underwriters;

(c) To examine all buildings requiring electrical construction in the process of erection, construction, alteration, or relocation in the city for the purpose of determining whether the work is in compliance with the permit given and in compliance with the regulations of the city pertaining to such work, including zoning regulations; and

(d) To keep comprehensive records of applications, of permits or certificates issued, of inspections made, of reports rendered, and of notices or orders issued. All such records shall be open to public inspection during stated office hours, but shall not be removed from the office of the Building Official or Electrical Inspector without his or her written consent.

§ 4-307 SAME; POWERS.

The Electrical Inspector shall have the following powers:

(a) To enter any building or structure or premises at any reasonable hour, whether complete or in the process of erection, to perform the duties contained in this chapter;

(b) To adopt and enforce all such prudent emergency measures as he or she may deem necessary and expedient for the public safety under the laws of the city; and

(c) May cause any work done in violation of this chapter to be discontinued until he or she shall have satisfactory evidence that the work will be done in accordance with the electrical regulations of the city, subject to the right of any installer or owner to appeal to the governing body.

§ 4-308 SAME; RIGHT OF ENTRY.

The Electrical Inspector, or his or her agent, upon proper identification, shall have authority to enter any building, structure, or premises at any reasonable hour to perform his or her duties as set out in this chapter.

§ 4-309 CLARIFICATION; MODIFICATION.

(a) The governing body shall be the final determiner of the scope and meaning of all provisions of the Electrical Code which may be unclear, ambiguous, or requiring interpretation.

(b) The Electrical Inspector shall have power to modify any of the provisions of the Electrical Code upon application in writing by the owner or lessee or his or her authorized agent, when there are

practical difficulties in the way of carrying out the strict letter of the code. In approving modifications, the Electrical Inspector shall see that the spirit of the code is observed, public safety secured, and substantial justice done. The particulars of a modification when granted or allowed and the decision of the Inspector thereon shall be entered upon the records of the Electrical Inspector and a signed copy shall be furnished to the applicant.

§ 4-310 ELECTRICAL PERMIT REQUIRED; APPLICATION; APPROVAL.

(a) Except as provided in division (b) below, it shall be unlawful for any person to engage in any electrical construction as defined in § 4-301 within the city without an electrical permit being first obtained therefor from the City Clerk, after approval by the Chief Building Official or his or her duly authorized assistant. The application for such permit shall be made and the permit obtained before any electrical construction work is commenced.

(b) No electrical permit shall be required for any of the following:

(1) The replacement of lamps, fuses, bulbs, or the connection of portable electrical equipment to suitable permanently installed receptacles and replacement of receptacles and switches, lighting fixtures, and apparatus where no changes or alterations are made to the wiring;

(2) Any work involved in the manufacturing, repair or testing of any electrical equipment or apparatus, but not including any permanent wiring; or

(3) Any work in industrial establishments where the issuance of electrical permits comes under the scope of other agencies.

§ 4-311 SAME; APPLICATION INFORMATION REQUIRED.

(a) An electrical permit shall be issued upon an application in writing to the office of City Clerk on a form or forms provided for the purpose. This application shall, among other things, disclose the following:

(1) The name of the owner of the lot or tract of ground;

(2) The location of the building or structure;

(3) The electrical construction work proposed;

(4) The class of occupancy;

(5) The class of electrical construction;

(6) The kind of materials to be used;

- (7) The estimated cost of the work;
- (8) The date work will commence;
- (9) Expected date of completion;
- (10) Name and address of electrical contractor or contractors doing the work; and
- (11) Such other information as may be pertinent to the issuance of the required permit.

(b) An application for an electrical permit shall be signed by the owner or his or her duly authorized agent, or an electrician or electrical contractor licensed by the city. If the application is made by the owner or his or her agent, it shall contain the name or names of the licensed electrician or electrical contractor or contractors doing the work described, or an electrical permit may be issued to the owner upon his or her application disclosing satisfactory evidence that the proposed work will be performed by the owner, himself or herself and not by a licensed electrical contractor, and likewise subject to the final approval of the Electrical Inspector for work performed.

(c) Upon approval of the completed application and a determination that a permit should be issued, the Chief Building Official or his or her assistant shall issue a permit to the owner, electrician, or electrical contractor authorizing the electrical construction work covered by the application.

(d) Any permit issued under this section shall be valid and subsisting for a period of not more than six months from the date of issuance unless the permittee shall have commenced, within the period so limited, the electrical construction work authorized by such permit. ***ELECTRICAL CONSTRUCTION WORK COMMENCED***, for the purpose of this section, shall mean the beginning of electrical construction work other than the preparation of plans or the letting of an electrical contract.

§ 4-312 SAME; PLANS AND SPECIFICATIONS.

Whenever an application for a electrical permit is made, the Chief Building Official or the Electrical Inspector may, if he or she finds it necessary to determine whether electrical construction work described in the application will comply with the laws pertaining to such work, require that the applicant file a written description or drawing of the proposed electrical construction as may be prepared for the purpose. If such drawing or description is insufficient for the purposes of determining whether a permit should be issued, the Building Official may require the applicant to file complete electrical and engineering plans and specifications for such electrical construction, or any part thereof, as may be necessary for the Inspector to determine compliance with this article. The filing of such plans and specifications and the approval thereof in connection with an application for a permit shall not in any way affect the authority of the city to deny or issue a permit, or to inspect any electrical construction work for conformity with this article.

§ 4-313 SAME; FEES.

The fee for an electrical permit shall be as set by the city, however no fee shall be required to obtain a permit where the total estimated cost, the reasonable value of all services, labor, and materials required, is under as amount as set by the city. The fee herein shall be paid to the City Clerk upon obtaining an electrical permit and the same shall be credited to the General Operating Fund of the city.

§ 4-314 SAME; POSTING.

A copy of the electrical permit shall be kept on the premises for public inspection during the performance of the work and until the completion of the same. The Electrical Inspector may require a certified copy of the approved plans to be kept on the premises at all times from the commencement of the work to the completion thereof.

§ 4-315 REQUEST FOR INSPECTION.

Upon the completion of any electrical work covered by this article, it shall be the duty of the person doing such work to notify the Electrical Inspector and request that it be inspected; after which such work shall be inspected promptly as hereinafter provided.

§ 4-316 INSPECTION; CONCEALMENT OF PRIOR WORK.

(a) When any electric equipment is to be hidden from view by the permanent placement of parts of the building, the person, firm, or corporation installing the equipment shall notify the Building Inspector and such equipment shall not be concealed until it has been inspected, approved, or authorized by the Electrical Inspector or until 24 hours, exclusive of Saturdays, Sundays, and holidays, shall have elapsed from the time of such notification. On large installations, where the concealment of equipment proceeds continuously, the person, firm, or corporation installing the electrical equipment shall give the Electrical Inspector due notice and inspections shall be made periodically during the progress of the work.

(b) The Electrical Inspector shall have the authority to require building contractors to open such work which, in any manner, conceals electrical wiring that has been closed without his or her knowledge or permission, and in no case shall the Inspector issue a certificate of approval until satisfied that the work is in accordance with the provisions of this article. The Inspector shall also have the right to refuse to issue a certificate of approval on any wiring, that is concealed in such manner that it cannot be fully determined that it has been done in accordance with this article.

§ 4-317 INSPECTION FEE.

An initial inspection fee of \$150 and an inspection fee of \$75 for subsequent inspections required, shall be paid before any electrical installation will be approved or a certificate of approval issued.

§ 4-318 CERTIFICATE OF APPROVAL.

(a) When the Electrical Inspector finds an electrical construction or installation to be in conformity with the provisions of this article, he or she shall issue to the person, firm, or corporation performing the electrical construction work or making the installation, a certificate of approval, with duplicate copy for delivery to the owner, authorizing the use of the installation and connection to the supply of electricity.

(b) When a certificate of approval is issued authorizing the connection and use of a temporary installation, the certificate shall expire at a time to be stated therein and shall be revocable for cause by the Electrical Inspector.

(c) In no case shall certificates of approval be issued on electrical construction, installations, or parts of installations where the work installed does not conform to the requirements of this article.

(d) If, upon inspection, the installation is not found to be fully in conformity with the provisions of this article, the Electrical Inspector shall immediately notify the person, firm, or corporation performing the electrical construction work or making the installation of the existing defects.

(e) No certificate of approval shall be issued unless the electric conductor or equipment has been installed in strict conformity with the provisions of this article and unless the electrical construction or installation is made in compliance with nationally approved methods of construction for safety to life and property as herein set forth.

(f) The Electrical Inspector shall be deemed the judge of whether the installation of electric conductors and equipment has been made in accordance with the requirements of this article.

(g) No certificate of approval shall be required for any of the following:

(1) The replacement of lamps, fuses, bulbs, or the connection of portable electrical equipment to suitable permanently installed receptacles and replacement of receptacles and switches, lighting fixtures, and apparatus where no changes or alterations are made to the wiring;

(2) Any work involved in the manufacturing, repair, or testing of any electrical equipment or apparatus, but not including any permanent wiring; or

(3) Any work in industrial establishments where inspections come under the scope of other inspection agencies.

§ 4-319 CONNECTION TO INSTALLATIONS.

It shall be unlawful for any person, firm, or corporation to make connection to a supply of electricity to any building or electrical equipment for which an inspection is required, or which has been

disconnected by the order of the Electrical Inspector, until a certificate of approval has been issued by the Electrical Inspector authorizing the connection and use of such electric supply. The Electrical Inspector may, at his or her discretion, authorize a temporary connection.

§ 4-320 REINSPECTION.

The Electrical Inspector shall periodically re-inspect existing installations of electrical conductors and equipment. When the installation of any conductors or equipment is found to be in a dangerous or unsafe condition, the person, firm, or corporation owning, using, or operating the installation shall be notified in writing and shall make the necessary repairs or changes required to place the conductors or equipment in safe condition and have the work completed within the period specified by the Electrical Inspector.

§ 4-321 CONDEMNATION; APPEAL.

(a) If in the judgment of the Electrical Inspector, after an inspection, any electrical conductors, appliances, or equipment in any building are unsafe or dangerous to persons or property, the Inspector shall have the power to cause the wires or appliances to be disconnected from the source of electrical energy supplying these conductors or equipment, and may, at his or her discretion, seal the control switches for the same in an open or disconnected position, whereupon he or she shall give notice to the owner, or his or her agent, or by posting such notice at the site and shall also notify the utilities serving the premises. Thereafter, it shall be unlawful for any person to cause or permit electric current to be supplied to the electrical conductors, appliances or equipment so sealed until they shall have been made safe and the Inspector shall have issued a certificate of approval to that effect.

(b) It shall be the duty of the Electrical Inspector to cause all dead wires, unused poles, or electric apparatus on the outside of the buildings or in streets or alleys to be removed at the expense of the owners thereof by giving the owners written notice.

(c) When the Electrical Inspector condemns all or part of any electrical installation, the owner may, within ten days after receiving written notice thereof, file a petition in writing for review of the action of the Building Inspector by the governing body, upon the receipt of which the governing body shall at once proceed to determine the facts, and within ten days from receiving the petition make a decision in accordance with their findings.

§ 4-322 INTERFERENCE BY UNAUTHORIZED PERSON.

It shall be unlawful for any unauthorized person to, in any manner, change or alter electrical conductors or equipment in or on any building. If, in the course of the erection of a building or structure, electrical conductors or equipment are in such position as to interfere with the erection or completion of the structure, notice shall be immediately given the authorized person or firm installing the electrical conductors or equipment, and the needed change shall be made by such authorized person or firm.

§ 4-323 ELECTRICIAN OR ELECTRICAL CONTRACTORS DEFINED.

(a) An *ELECTRICIAN* or *ELECTRICAL CONTRACTOR* for purposes of this article shall be any person, firm, co-partnership, corporation, association, or any combination thereof, whether a resident or not of the city:

(1) Who or which undertakes with or for another, for a fixed sum, price, fee, or any other compensation to install, construct, alter, repair, add to, or move any electrical installation or performs any electrical construction work in the city, for which an electrical construction permit may now or hereafter be required by the laws of the city;

(2) Who or which advertises or represents himself, herself, or itself to the public to have the capacity or ability to undertake, or submit a bid or offer to install, construct, alter, repair, add to, remove, restore, or replace any electrical installation or perform any electrical construction work; or

(3) Who or which installs, constructs, alters, adds to, or removes any electrical installation or performs any electrical construction work either on his or her own or other property for purposes of sale or speculation.

(b) An *ELECTRICIAN* or *ELECTRICAL CONTRACTOR* as defined shall not mean or include:

(1) Any owner or his or her authorized agents or employees making ordinary repairs to his, her, or its own building or structure not involving electrical construction and for which a permit is not required or on which an electrician or electrical contractor, as defined, is not required, employed, or engaged to perform; or

(2) Any property owner personally performing any improvements, alterations, or electrical construction within or upon his or her own residence and intended for his or her own personal use and permanent occupancy; provided, the owner shall satisfy the Electrical Inspector as to his or her ability to perform such work, secure a permit, pay required fees, do work in accordance with this article, and apply for an inspection and receive approval. Personal electrical construction by an owner under this section shall be by himself, herself, for himself or herself on his or her own residence, without compensation and no person shall be employed to assist him or her in any way on such work except an electrician or electrical contractor licensed by the city.

**§ 4-324 ELECTRICIAN'S OR ELECTRICAL CONTRACTOR'S LICENSE REQUIRED;
ELECTRICAL PERMITS; UNLAWFUL ACTS.**

(a) Each electrician or electrical contractor shall before entering upon any electrical construction work subject to regulation by city laws, apply to the City Clerk for an electrician's or electrical contractor's license and receive the same as hereinafter provided and have in his or her possession a valid license authorizing him, her, or it to engage in the trade or occupation of electrician or electrical contractor in the city.

(b) No permit for any electrical construction work shall be issued for any such work to be performed by an electrician or electrical contractor, as defined, who has not first obtained a license upon making a proper application and payment of the license fee as required.

(c) It shall be unlawful for any person, firm, company, association, or corporation to enter into a contract or agreement with another so as to bring himself, herself, or itself under the definition of an electrician or electrical contractor herein, or to perform any work as an electrician or electrical contractor or any work under a contract for any work involving electrical construction, without first having obtained an electrician's or electrical contractor's license issued by the city.

§ 4-325 SAME; APPLICATION; GRANTING.

Application for an electrician's or electrical contractor's license shall be made upon a form to be supplied by the city which shall disclose the name of the applicant, his or her place of business in the city (and home office if a non-resident), the kind of contracting work engaged in the length of time engaged in such work and places where work has been performed within the past two years. The application shall be signed by the electrician or electrical contractor or his or her authorized agent. The applications shall be, by the Chief Building Official referred to the governing body at its next meeting for action thereon. Such license shall be issued by the City Clerk, upon payment of the fees hereinafter provided after approval of the governing body.

§ 4-326 SAME; LICENSE FEES; CONDITIONS; RENEWAL; UNLAWFUL ACTS.

(a) (1) The following license fees shall be paid for the calendar year or major fraction thereof:

(A) General electrician or electrical contractor, who shall qualify to engage in more than one kind of electrical construction work, the sum as set by the city; and

(B) Limited electrician or electrical contractor, who shall qualify to engage in not more than one kind of electrical construction work, the sum of as set by the city.

(2) Any license issued on or after July 1 of each year shall be issued upon payment of one-half the annual license fee.

(b) Each such license shall set forth the kind of electrical construction work in which the licensee may engage. The licensee shall display his or her license at any place where he or she may be engaged in contract work or produce the same on demand of any city officer. All licenses shall be renewable annually as in the case of an original license on or before January 1 of the year for which issued.

(c) It shall be unlawful for any person, firm, or corporation to contract for any kind of work covered by this article without having a valid license issued by the city to perform such contracts.

§ 4-327 ELECTRICIAN'S OR ELECTRICAL CONTRACTOR'S BOND REQUIRED; CONDITIONS; APPROVAL; RIGHTS RESERVED.

(a) Before any license shall be issued to any electrician or electrical contractor required by this article to obtain a license and pay a fee to the city, the electrician or electrical contractor shall secure and file with the City Clerk a good and sufficient corporate surety bond in the principal sum as set by the city conditioned that the principal named therein shall faithfully and fully observe all laws of the city relating to the business or occupation for which a license is desired and further conditioned to hold and save the city harmless and free of claims for loss or damage to persons or property, or from damage, injury, or destruction of property belonging to the city, resulting from, or arising out of, the negligence or failure of the principal or any of his, her, or its employees, agents, servants to use due care or diligence respecting any opening or excavation made in, or adjacent to any street, alley or public ground in the city, or any materials stored, placed or used in any such places, or the operation or use of any vehicle, machinery or equipment in the streets, alleys, or public grounds in connection with the business or occupation licensed. Each such bond shall be issued by a company authorized to do business in the state and shall be executed by an agent of the company residing in the county and further conditioned that in the event of cancellation or expiration that the company or agent will give ten days' notice of such fact to the City Clerk. Each such bond shall be approved as to form by the City Attorney and approved as to surety by the City Treasurer and the approval thereof shall be endorsed on the bond by the City Attorney and by the Mayor over their signatures.

(b) Each bond shall be dated to run from the first day of any license issued by the city to the principal and may cover the period of not to exceed two years. No bond shall be renewed by an extension certificate but a new bond shall be filed by the principal for each successive period following the renewal thereof. The city reserves the right to furnish the form of all surety bonds as may be required by this article.

§ 4-328 INSURANCE.

In addition to obtaining a corporate surety bond as required by § 4-327, an electrician or electrical contractor must procure and maintain a liability insurance policy in the amount of \$100,000 for the death or injury of any one person and \$300,000 for the death or injury of any number of persons in any one accident and \$50,000 for property damage in any one accident. Such policies of insurance shall be issued by some insurance company authorized to do business in the state. An electrician or electrical contractor may qualify as to the insurance requirements by filing a certificate with the City Clerk executed by the resident agent of such company stating that the required policy of insurance has been issued by such company for the purpose required by this article and that such insurer will not cancel the policy except upon giving 30 days' notice in writing to the city; and that the certificate shall be filed for an annual period beginning January 1 and ending December 31 of such year.

§ 4-329 LICENSE SUSPENSION; REVOCATION; APPEAL; UNLAWFUL ACTS.

(a) The license of any electrician or electrical contractor may be suspended temporarily, for a period of not to exceed 30 days at any one time, by the Chief Building Official upon his or her own

motion or upon a complaint of the City Electrical Inspector. Notice shall be given in writing to such electrician or electrical contractor giving reasonable notice of a time of hearing of the complaint or the matter alleged against such electrician or electrical contractor involving any one or more of the following:

- (1) Misrepresentation of a material fact by applicant in obtaining a license;
- (2) Use of license to obtain an electrical permit for another;
- (3) Failure or neglect to observe conditions of permit authorizing encumbering of streets or sidewalks for safety of public;
- (4) Performance of any electrical construction work without a permit where one is required by law; or
- (5) Willful disregard of any violation of the electrical construction laws, or failure to comply with any lawful order of the City Electrical Inspector.

(b) Any licensee may within 15 days appeal in writing to the governing body from any order of the Chief Building Official suspending his or her license for its final decision thereon. The governing body may upon such hearing terminate such suspension within not more than 30 days thereafter, or may revoke such license. If any license shall be revoked, the electrician or electrical contractor shall not be eligible for a new license during a period of six months thereafter. No fee shall be refunded in event of the suspension or revocation of any electricians or electrical contractor's license.

(c) It shall be unlawful to engage in the occupation or trade of electrician or electrical contractor during the time any license of such electrician or electrical contractor has been suspended or revoked.

§ 4-330 WORK BY PROPERTY OWNERS.

Nothing herein contained shall prohibit any property owner from personally performing any electrical construction or installing electrical wiring or equipment within and upon his or her own residence and intended for his or her personal use and permanent occupancy; provided, the owner shall satisfy the Electrical Inspector as to his or her ability to perform such work or install such electrical wiring, secure a permit, pay required fees, do work in accordance with this article, and apply for an inspection and receive a certificate of approval. Personal electrical construction or installation performed by an owner under this section shall be by himself, herself, for himself or herself on his or her own residence, without compensation and no person shall be employed to assist him or her in any way on such work, except an electrician or electrical contractor licensed by the city.
(1993 Code, § 4-304)

§ 4-331 APPROVED MATERIALS.

No electric materials for wiring of appliances or equipment shall be installed in the city unless they are in conformity with the provisions of this article and with the approved standards of construction for

safety to life and property. Conformity of materials for wiring appliances and equipment to the standards of the Underwriters Laboratories, Inc. shall be prima facie evidence that the materials, devices, appliances, and equipment comply with the requirements of this article.

(1993 Code, § 4-305)

§ 4-332 LIABILITY.

This article shall not be construed to relieve from or lessen the responsibility or liability of any party owning, operating, controlling, or installing any electrical equipment for damages to persons or property caused by any defect therein, nor shall the city be held as assuming any such liability, by reason of the inspection or re-inspection authorized herein, or the certificate of approval of any work or equipment authorized herein or by reason of any permit or license granted herein.

(1993 Code, § 4-306)

§ 4-333 SEVERABILITY.

If any section of the National Electrical Code or of this article shall be held unconstitutional or otherwise invalid by any court of competent jurisdiction, then such section shall be considered separate and apart from the remaining provisions of the National Electrical Code or of this article, the section is to be completely severable from the remaining provisions which shall continue in full force and effect.

(1993 Code, § 4-307)

ARTICLE 4: PLUMBING AND GAS-FITTING CODE

Section

- 4-401 Definition of plumbing
- 4-402 Uniform Plumbing Code incorporated
- 4-403 Additional provisions
- 4-404 Building Official; authority
- 4-405 Plumbing Inspector; appointment
- 4-406 Same; duties
- 4-407 Same; powers
- 4-408 Same; right of entry
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- 4-410 Plumbing permit required; exception
- 4-411 Same; application information required
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- 4-419 Connection to gas or water supply
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- 4-421 Plumber or plumbing contractor; defined
- 4-422 Plumber's or plumbing contractor's license required; plumbing permits; unlawful acts
- 4-423 Same; application; granting
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- 4-428 Excavations
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- 4-431 Liability
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§ 4-401 DEFINITION OF PLUMBING.

The term *PLUMBING*, as used in this article, shall be construed to mean the installation of gas or water pipes, fixtures, apparatus, and the necessary connections either for supplying gas or water to premises or for the removing of liquid and water-borne wastes from premises in the city, or both such purposes, and shall also denote installed fixtures, drainage, and vent systems and gas or water distribution systems as the case may be.

(1993 Code, § 4-401)

§ 4-402 UNIFORM PLUMBING CODE INCORPORATED.

(a) There is hereby adopted and incorporated by reference, for the purpose of establishing rules and regulations for the practice of plumbing and gas-fitting, including the installation, maintenance, extension, and alteration of all pipes, fixtures, appliances, and appurtenances in connection with sanitary sewers and public and private water and fuel gas systems, the Uniform Plumbing Code, 2015 Edition, as recommended by the International Association of Plumbing and Mechanical Officials, such code being made as a part of the ordinances and code of the city as if the same had been set out in full herein, all as authorized and in the manner prescribed by K.S.A. 12-3009 through 12-3012 including any amendments thereto. One copy of the uniform code shall be marked or stamped "Official Copy as Incorporated by the Code of the City of Cunningham", and shall be filed with the City Clerk to be open to inspection and available to the public at all reasonable hours of business.

(b) Any person violating any provisions of such code shall be punished as provided in § 1-116 of this code.

(1993 Code, § 4-402)

§ 4-403 ADDITIONAL PROVISIONS.

The following sections of this article are in addition to the provisions of the standard code incorporated by reference in § 4-402.

(1993 Code, § 4-403)

§ 4-404 BUILDING OFFICIAL; AUTHORITY.

The Mayor shall be responsible for the administration and enforcement of this article and appointment of a Plumbing Inspector in accordance with § 4-204, which apply in a like manner to this article.

§ 4-405 PLUMBING INSPECTOR; APPOINTMENT.

The Mayor may assume the responsibilities of or appoint some qualified individual to be and perform the duties of Plumbing Inspector as may be required, subject to the consent and approval of the governing body.

§ 4-406 SAME; DUTIES.

The Plumbing Inspector shall have the following duties:

(a) To enforce all regulations relating to plumbing construction, alteration, repair, or removal;

(b) May permit, with the approval of the governing body, on the basis of duly authenticated reports from recognized sources, the use of new materials or modes of construction, not provided for in this article, and may, for the purpose of carrying out the intent of this article adopt an accepted standard of material or workmanlike practices of federal or state bureaus, national, technical organizations, or fire underwriters;

(c) To examine all buildings in the process of erection, construction, alteration, or relocation in the city for the purpose of determining whether the work is in compliance with the plumbing permit given and in compliance with the regulations of the city pertaining to such work, including zoning regulations; and

(d) To keep comprehensive records of applications, of permits or certificates issued, of inspections made, of reports rendered, and of notices or orders issued. All such records shall be open to public inspection during stated office hours, but shall not be removed from the office of the Building Official or Plumbing Inspector without his or her written consent.

§ 4-407 SAME; POWERS.

The Plumbing Inspector shall have the following powers:

(a) To enter any building or structure or premises at any reasonable hour, whether complete or in the process of erection, to perform the duties contained in this chapter;

(b) To adopt and enforce all such prudent emergency measures as he or she may deem necessary and expedient for the public safety under the laws of the city; and

(c) May cause any work done in violation of this chapter to be discontinued until he or she shall have satisfactory evidence that the work will be done in accordance with the plumbing regulations of the city, subject to the right of any plumber, plumbing contractor or owner to appeal to the governing body.

§ 4-408 SAME; RIGHT OF ENTRY.

The Plumbing Inspector, or his or her agent, upon proper identification, shall have authority to enter any building, structure, or premises at any reasonable hour to perform his or her duties as set out in this chapter.

§ 4-409 CLARIFICATION; MODIFICATION.

(a) The governing body shall be the final determiner of the scope and meaning of all provisions of the Plumbing Code which may be unclear, ambiguous, or requiring interpretation.

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

§ 4-410 PLUMBING PERMIT REQUIRED; EXCEPTION.

(a) It shall be unlawful to install, alter, or reconstruct any plumbing or plumbing system, as defined by the Plumbing Code and § 4-401, in any building in the city without first making application to and receiving a permit therefor from the City Clerk, after approval by the Chief Building Official or his or her authorized assistant. The application for such permit shall be made and the permit obtained before any plumbing work is commenced.

(b) No permit shall be required for making minor repairs of any plumbing including repair of leaks in water pipes, traps, or cocks, opening up stoppage in waste or supply pipes, traps, or drains, replacing fixtures when waste pipes are not disturbed, or replacing frozen pipes inside the building, and like repair work not involving original installation or reconstruction.

§ 4-411 SAME; APPLICATION INFORMATION REQUIRED.

(a) A plumbing permit shall be issued upon an application in writing to the office of City Clerk on a form or forms provided for the purpose. This application shall, among other things, disclose the following:

- (1) The name of the owner of the lot or tract of ground;
- (2) The location of the building or structure;
- (3) The plumbing work proposed;
- (4) The class of occupancy;
- (5) The class of construction;
- (6) The kind of materials to be used;

- (7) The estimated cost of the work;
- (8) The date work will commence;
- (9) Expected date of completion;
- (10) Name and address of plumber, plumbing contractor, or contractors doing the work; and
- (11) Such other information as may be pertinent to the issuance of the required permit.

(b) An application for a plumbing permit shall be signed by the owner or his or her duly authorized agent, or a plumber or plumbing contractor licensed by the city. If the application is made by the owner or his or her agent, it shall contain the name or names of the licensed plumber, plumbing contractor, or contractors doing the work described, or a plumbing permit may be issued to the owner upon his or her application disclosing satisfactory evidence that the proposed work will be performed by the owner, himself or herself and not by a licensed plumber or plumbing contractor, and likewise subject to the final approval of the Plumbing Inspector for work performed.

(c) Upon approval of the completed application and a determination that a permit should be issued, the Chief Building Official or his or her assistant shall issue a permit to the owner or contractor authorizing the plumbing work covered by the application.

(d) Any permit issued under this section shall be valid and subsisting for a period of not more than six months from the date of issuance unless the permittee shall have commenced, within the period so limited, the plumbing work authorized by such permit. Plumbing work commenced for the purpose of this section shall mean the beginning of plumbing work other than the preparation of plans or the letting of a plumbing contract.

§ 4-412 SAME; PLANS AND SPECIFICATIONS.

Whenever an application for a plumbing permit is made, the Chief Building Official or the Plumbing Inspector may, if he or she finds it necessary to determine whether work described in the application will comply with the laws pertaining to such work, require that the applicant file a written description or drawing of the proposed plumbing construction as may be prepared for the purpose. If such drawing or description is insufficient for the purposes of determining whether a permit should be issued, the Chief Building Official or the Plumbing Inspector may require the applicant to file complete architectural and engineering plans and specifications for such building or construction, or any part thereof, as may be necessary for the Inspector to determine compliance with this article. The filing of such plans and specifications and the approval thereof in connection with an application for a permit shall not in any way affect the authority of the city to deny or issue a permit, or to inspect any plumbing work for conformity with this article.

§ 4-413 SAME; FEES.

The fee for a plumbing permit shall be as set by the city; however, no fee shall be required to obtain a permit where the total estimated cost, the reasonable value of all services, labor, and materials required, is under an amount as set by the city. The fee herein shall be paid to the City Clerk upon obtaining a plumbing permit and the same shall be credited to the General Operating Fund of the city.

§ 4-414 SAME; POSTING.

A copy of the plumbing permit shall be kept on the premises for public inspection during the performance of the work and until the completion of the same. The Plumbing Inspector may require a certified copy of the approved plans to be kept on the premises at all times from the commencement of the work to the completion thereof.

§ 4-415 REQUEST FOR INSPECTION.

Upon the completion of any plumbing work covered by this article, it shall be the duty of the person doing such work to notify the Plumbing Inspector and request that it be inspected; after which such work shall be inspected promptly as hereinafter provided.

§ 4-416 INSPECTION; CONCEALMENT OF PRIOR WORK.

(a) When any plumbing is to be hidden from view by the permanent placement of parts of the building, the person, firm or corporation installing the plumbing shall notify the Plumbing Inspector and such equipment shall not be concealed until it has been inspected, approved, or authorized by the Plumbing Inspector or until 24 hours, exclusive of Saturdays, Sundays, and holidays, shall have elapsed from the time of such notification. On large installations, where the concealment of plumbing proceeds continuously, the person, firm, or corporation installing the plumbing shall give the Plumbing Inspector due notice and inspections shall be made periodically during the progress of the work.

(b) The Plumbing Inspector shall have the authority to require owners or contractors to open such work which, in any manner, conceals plumbing that has been closed without his or her knowledge or permission, and in no case shall the Inspector issue a certificate of approval until satisfied that the work is in accordance with the provisions of this article. The Inspector shall also have the right to refuse to issue a certificate of approval on any plumbing, that is concealed in such manner that it cannot be fully determined that it has been done in accordance with this article.

§ 4-417 INSPECTION FEE.

An initial inspection fee of \$150 and an inspection fee of \$75 for subsequent inspections required, shall be paid before any plumbing will be approved or a certificate of approval issued.

§ 4-418 CERTIFICATE OF APPROVAL.

(a) When the Plumbing Inspector finds plumbing construction to be in conformity with the provisions of this article, he or she shall issue to the person, firm, or corporation performing the plumbing construction, a certificate of approval, with duplicate copy for delivery to the owner, authorizing the use of the plumbing system and connection to the supply of gas or water, as the case may be.

(b) When a certificate of approval is issued authorizing the connection and use of a temporary gas or water supply, the certificate shall expire at a time to be stated therein and shall be revocable for cause by the Plumbing Inspector.

(c) In no case shall certificates of approval be issued on plumbing or plumbing systems or parts of systems where the work installed does not conform to the requirements of this article.

(d) If, upon inspection, the plumbing or plumbing system is not found to be fully in conformity with the provisions of this article, the Plumbing Inspector shall immediately notify the person, firm, or corporation making the installation of the existing defects.

(e) No certificate of approval shall be issued unless the plumbing or plumbing system has been installed in strict conformity with the provisions of this article and unless the plumbing or plumbing system is made in compliance with nationally approved methods of construction for safety to life and property as herein set forth.

(f) The Plumbing Inspector shall be deemed the judge of whether the plumbing or plumbing system has been made in accordance with the requirements of this article.

(g) No certificate of approval shall be required for making minor repairs of any plumbing including repair of leaks in water pipes, traps, or cocks, opening up stoppage in waste or supply pipes, traps, or drains, replacing fixtures when waste pipes are not disturbed, or replacing frozen pipes inside the building, and like repair work not involving original installation or reconstruction.

§ 4-419 CONNECTION TO GAS OR WATER SUPPLY.

It shall be unlawful for any person, firm, or corporation to make connection to a supply of gas or water for which an inspection is required, or which has been disconnected by the order of the Plumbing Inspector, until a certificate of approval has been issued by the Plumbing Inspector authorizing the connection and use of such plumbing or plumbing system. The Plumbing Inspector may, at his or her discretion, authorize a temporary connection.

§ 4-420 CONDEMNATION; APPEAL.

(a) If, in the judgment of the Plumbing Inspector, after inspection, the plumbing or plumbing system in any building are unsafe or dangerous to persons or property, the Inspector shall have the power

to cause the plumbing or plumbing system to be disconnected from the supply of gas or water and may, at his or her discretion, seal the control valves for the same in a closed or disconnected position, whereupon he or she shall give notice to the owner, or his or her agent, or by posting such notice at the site and shall also notify the utilities serving the premises. Thereafter, it shall be unlawful for any person to cause or permit gas or water to be supplied to the plumbing or plumbing system so sealed until they shall have been made safe and the Inspector shall have issued a certificate of approval to that effect.

(b) When the Plumbing Inspector condemns all or part of any plumbing system, the owner may, within ten days after receiving written notice thereof, file a petition in writing for review of the action of the Plumbing Inspector by the governing body, upon the receipt of which the governing body shall at once proceed to determine the facts, and within ten days from receiving the petition make a decision in accordance with their findings.

§ 4-421 PLUMBER OR PLUMBING CONTRACTOR; DEFINED.

(a) A *PLUMBER* or *PLUMBING CONTRACTOR* shall mean:

(1) Any person engaged in the business of installing, altering, maintaining, or repairing plumbing, which shall include all materials and plumbing fixtures, water pipes, portable water treatment equipment, traps, drainage and vent piping, and building drains, including their respective points, connections, devices, receptacles, and appurtenances located within the property lines of any premises or in any building; and

(2) Any gas fitter or person engaged in the business of installing, altering, or repairing fuel gas piping, gas systems or fixtures.

(b) A *PLUMBER* or *PLUMBING CONTRACTOR* as defined in division (a) above shall not mean or include the owner of a residence who personally installs plumbing piping or equipment within and upon his or her own residence and intended for his or her own personal use and permanent occupancy; provided, the owner shall satisfy the Plumbing Inspector as to his or her ability to install such piping or equipment, secure a permit, pay required fees, do work in accordance with this article, and apply for an inspection and receive approval. Personal installation by an owner under this section shall be himself, herself, for himself or herself on his or her own residence, without compensation and no person shall be employed to assist him or her in any way on such work, except a plumber or plumbing contractor licensed by the city.

§ 4-422 PLUMBER'S OR PLUMBING CONTRACTOR'S LICENSE REQUIRED; PLUMBING PERMITS; UNLAWFUL ACTS.

(a) Each plumber or plumbing contractor shall before entering upon any plumbing work subject to regulation by city laws, apply to the City Clerk for a plumber's or plumbing contractor's license and receive the same as hereinafter provided and have in his or her possession a valid license authorizing him, her, or it to engage in the trade or occupation of a plumber or plumbing contractor in the city.

(b) No permit for any plumbing work shall be issued for any such work to be performed by a plumber or plumbing contractor, as defined, who has not first obtained a license upon making a proper application and payment of the license fee as required.

(c) It shall be unlawful for any person, firm, company, association, or corporation to enter into a contract or agreement with another so as to bring himself, herself, or itself under the definition of a plumber or plumbing contractor herein, or to perform any work as a plumber or plumbing contractor or any work under a contract for any work involving plumbing construction, without first having obtained a plumber's or plumbing contractor's license issued by the city.

§ 4-423 SAME; APPLICATION; GRANTING.

Application for a plumber's or plumbing contractor's license shall be made upon a form to be supplied by the city which shall disclose the name of the applicant, his or her place of business in the city (and home office if a non-resident), the kind of contracting work engaged in, the length of time engaged in such work and places where work has been performed within the past two years. The application shall be signed by the plumber or plumbing contractor or his or her authorized agent. The applications shall be, by the Chief Building Official referred to the governing body at its next meeting for action thereon. Such license shall be issued by the City Clerk, upon payment of the fees hereinafter provided after approval of the governing body.

§ 4-424 SAME; LICENSE FEES; CONDITIONS; RENEWAL; UNLAWFUL ACTS.

(a) (1) The following license fees shall be paid for the calendar year or major fraction thereof:

(A) General plumber or plumbing contractor, who shall qualify to engage in more than one kind of plumbing work, the sum as set by the city; and

(B) Limited plumber or plumbing contractor, who shall qualify to engage in not more than one kind of plumbing work, the sum as set by the city.

(2) Any license issued on or after July 1 of each year shall be issued upon payment of one-half the annual license fee.

(b) Each such license shall set forth the kind of plumbing work in which the licensee may engage. The licensee shall display his or her license at any place where he or she may be engaged in plumbing work or produce the same on demand of any city officer. All licenses shall be renewable annually as in the case of an original license on or before January 1 of the year for which issued.

(c) It shall be unlawful for any person, firm, or corporation to contract for any kind of work covered by this article without having a valid license issued by the city to perform such contracts.

§ 4-425 PLUMBER'S OR PLUMBING CONTRACTOR'S BOND REQUIRED; CONDITIONS; APPROVAL; RIGHTS RESERVED.

(a) Before any license shall be issued to any plumber or plumbing contractor required by this article to obtain a license and pay a fee to the city, the plumber or plumbing contractor shall secure and file with the City Clerk a good and sufficient corporate surety bond in the principal sum as set by the city conditioned that the principal named therein shall faithfully and fully observe all laws of the city relating to the business or occupation for which a license is desired and further conditioned to hold and save the city harmless and free of claims for loss or damage to persons or property, or from damage, injury or destruction of property belonging to the city, resulting from, or arising out of, the negligence or failure of the principal or any of his, her or its employees, agents, servants to use due care or diligence respecting any opening or excavation made in, or adjacent to any street, alley or public ground in the city, or any materials stored, placed or used in any such places, or the operation or use of any vehicle, machinery or equipment in the streets, alleys or public grounds in connection with the business or occupation licensed. Each such bond shall be issued by a company authorized to do business in the state and shall be executed by an agent of the company residing in the county and further conditioned that in the event of cancellation or expiration that the company or agent will give ten days' notice of such fact to the City Clerk. Each such bond shall be approved as to form by the City Attorney and approved as to surety by the City Treasurer and the approval thereof shall be endorsed on the bond by the City Attorney and by the Mayor over their signatures.

(b) Each bond shall be dated to run from the first day of any license issued by the city to the principal and may cover the period of not to exceed two years. No bond shall be renewed by an extension certificate, but a new bond shall be filed by the principal for each successive period following the renewal thereof. The city reserves the right to furnish the form of all surety bonds as may be required by this article.

§ 4-426 INSURANCE.

In addition to obtaining a corporate surety bond as required by § 4-425, a plumber or plumbing contractor must procure and maintain a liability insurance policy in the amount of \$100,000 for the death or injury of any one person and \$300,000 for the death or injury of any number of persons in any one accident and \$50,000 for property damage in any one accident. Such policies of insurance shall be issued by some insurance company authorized to do business in the state. A plumber or plumbing contractor may qualify as to the insurance requirements by filing a certificate with the City Clerk executed by the resident agent of such company stating that the required policy of insurance has been issued by such company for the purpose required by this article and that such insurer will not cancel the policy except upon giving 30 days' notice in writing to the city; and that the certificate shall be filed for an annual period beginning January 1 and ending December 31 of such year.

§ 4-427 LICENSE SUSPENSION; REVOCATION; APPEAL; UNLAWFUL ACTS.

(a) The license of any plumber or plumbing contractor may be suspended temporarily, for a period of not to exceed 30 days at any one time, by the Chief Building Official upon his or her own motion or

upon a complaint of the City Plumbing Inspector. Notice shall be given in writing to such plumber or plumbing contractor giving reasonable notice of a time of hearing of the complaint or the matter alleged against such plumber or plumbing contractor involving any one or more of the following:

- (1) Misrepresentation of a material fact by applicant in obtaining a license;
- (2) Use of license to obtain a plumbing permit for another;
- (3) Failure or neglect to observe conditions of a permit authorizing encumbering of streets or sidewalks for safety of public;
- (4) Performance of any plumbing work without a permit where one is required by law; or
- (5) Willful disregard of any violation of the plumbing laws, or failure to comply with any lawful order of the City Plumbing Inspector.

(b) Any licensee may within 15 days appeal in writing to the governing body from any order of the Chief Building Official suspending his or her license for its final decision thereon. The governing body may, upon such hearing, terminate such suspension within not more than 30 days thereafter, or may revoke such license. If any license shall be revoked, the plumber or plumbing contractor shall not be eligible for a new license during a period of six months thereafter. No fee shall be refunded in event of the suspension or revocation of any plumber's or plumbing contractor's license.

(c) It shall be unlawful to engage in the occupation or trade of plumber or plumbing contractor during the time any license of such plumber or plumbing contractor has been suspended or revoked.

§ 4-428 EXCAVATIONS.

When it appears that the laying or repairing of any water or sewer pipes or the making of any connection therewith shall require excavation in any street, alley, or public way of the city or the cutting or removal of any pavement, curb, or gutter or any sidewalk, during the course of such work, the application for a permit shall so state and describe the location and extent of the excavation, cutting or removal. Before the City Clerk shall issue any permit for such work, the applicant shall pay any fee required by this code. All excavations shall be barricaded and guarded as provided by the appropriate sections of this code. Before any such excavation shall be backfilled, new plumbing work therein shall be inspected and the bottom of the excavation holding any sewer, drain or water pipe shall be so filled, leveled and tamped as to properly support the pipe and permit proper drainage when carrying sewage, and the excavation shall be backfilled and all paving, curbing, guttering, or sidewalks shall be restored as near as possible to their last condition, subject always to the approval of the Plumbing Inspector or the Superintendent of Streets.

§ 4-429 WORK BY PROPERTY OWNERS.

Nothing herein contained shall prohibit any property owner from personally installing plumbing piping or equipment within and upon his or her own residence and intended for his or her personal use

and permanent occupancy; provided, the owner shall satisfy the Plumbing Inspector as to his or her ability to install such piping or equipment, secure a permit, pay required fees, do work in accordance with this article, and apply for an inspection and receive approval. Personal installation by an owner under this section shall be by himself, herself, for himself or herself on his or her own residence, without compensation and no person shall be employed to assist him or her in any way on such work, except a plumber or plumbing contractor licensed by the city.

(1993 Code, § 4-404)

§ 4-430 APPROVED MATERIALS.

No plumbing materials, appliances, or equipment shall be installed in the city unless they are in conformity with the provisions of this article and with the approved standards of construction for safety to life and property. Conformity of materials for plumbing materials, appliances, and equipment to the standards of the Underwriters Laboratories, Inc. shall be prima facie evidence that the materials, devices, appliances, and equipment comply with the requirements of this article.

(1993 Code, § 4-405)

§ 4-431 LIABILITY.

This article shall not be construed to relieve from or lessen the responsibility or liability of any party owning, operating, controlling, or performing any plumbing construction for damages to persons or property caused by any defect therein, nor shall the city be held as assuming any such liability, by reason of the inspection or re-inspection authorized herein, or the certificate of approval of any work or equipment authorized herein or by reason of any permit or license granted herein.

(1993 Code, § 4-406)

§ 4-432 SEVERABILITY.

If any section of the Uniform Plumbing Code or of this article shall be held unconstitutional or otherwise invalid by any court of competent jurisdiction, then such section shall be considered separate and apart from the remaining provisions of the Uniform Plumbing Code or of this article, the section is to be completely severable from the remaining provisions which shall continue in full force and effect.

(1993 Code, § 4-407)

ARTICLE 5: MOVING BUILDINGS

Section

- 4-501 Building Official; authority
- 4-502 Permit required
- 4-503 Same: application for permit
- 4-504 Same; bond, insurance required
- 4-505 Same; fee
- 4-506 Contractor; license required; fee
- 4-507 Route; duties of Building Official
- 4-508 Notice to owners
- 4-509 Duty of owners
- 4-510 Interfering with poles; wires
- 4-511 Display of lanterns

§ 4-501 BUILDING OFFICIAL; AUTHORITY.

The Mayor shall be responsible for the administration and enforcement of this article and appointment of an inspector in accordance with §§ 4-204 through 4-209, which apply in a like manner to this article.

(1993 Code, § 4-501)

§ 4-502 PERMIT REQUIRED.

No person, firm, or corporation shall move, haul, or transport any house, building, derrick, or other structure of the height when loaded for movement of 16 feet or more from the surface of the highway, road, street, or alley, or a width of eight feet or more or which cannot be moved at a speed of four mph or faster, upon, across or over any street, alley, or sidewalk in this city without first obtaining a permit therefor.

(K.S.A. 17-1914) (1993 Code, § 4-502)

§ 4-503 SAME: APPLICATION FOR PERMIT.

All applications for permits required under the provisions of this article shall be made in writing to the City Clerk specifying the day and hour said moving is to commence and the route through the city's

streets over which the house, building, derrick, or other structure shall be moved and stating whether it will be necessary to cut and move, raise, or in any way interfere with any wires, cables, or other aerial equipment of any public or municipally-owned utility, and if so, the application shall also state the name of the public or municipally-owned utility, and the time and location that the applicant's moving operations shall necessitate the cutting, moving, raising or otherwise interfering with such aerial facilities.

(K.S.A. 17-1915) (1993 Code, § 4-503)

§ 4-504 SAME; BOND, INSURANCE REQUIRED.

(a) It shall be the duty of any person at the time of making application for a permit as provided in this article to give a good and sufficient surety bond to the city, to be approved by the governing body, indemnifying the city against any loss or damage resulting from the failure of any such person to comply with the provisions of this article or for any damage or injury caused in moving any such house or structure. The bond herein shall be in the sum of \$5,000, or cash may be deposited in lieu of such surety bond.

(b) A public liability insurance policy issued by an insurance company authorized to do business in the state, in the amount of \$100,000 per person, \$300,000 per accident as to personal injury, and \$50,000 property damage may be permitted in lieu of a bond.

(1993 Code, § 4-504)

§ 4-505 SAME; FEE.

Before any permit to move any house or structure is given under the provisions of this article, the applicant shall pay a fee of not less than \$5 to the City Clerk; plus the additional cost for the time for any city crews involved in such moving.

(1993 Code, § 4-505)

§ 4-506 CONTRACTOR; LICENSE REQUIRED; FEE.

The provisions of §§ 4-219 through 4-225 shall apply in a like manner to this article.

(1993 Code, § 4-506)

§ 4-507 ROUTE; DUTIES OF BUILDING OFFICIAL.

The City Clerk shall, upon filing of the above application, refer the same to the Chief Building Official or his or her authorized designee to check the proposed route and determine if it is practical to move such house or other structure over the route proposed. If it shall appear that such route is not practical and another route may be used equally well with less danger to street and travel, then he or she may designate such other route as the one to be used and shall notify the applicant of the same. The Building Official may also require the planking of any street, bridge, or culvert or any part thereof to

prevent damage thereto. It shall also be the duty of the Chief Building Official or his or her authorized designee to inspect the progress of moving any house or other structure to see that the same is being moved in accordance with the provisions of this article.

(1993 Code, § 4-507)

§ 4-508 NOTICE TO OWNERS.

(a) Upon issuance of a moving permit the applicant shall give not less than 15 days' written notice to any person owning or operating any wires, cables, or other aerial equipment along the proposed route of the intent to move the structure, giving the time and location that the applicants moving operation shall necessitate the cutting, moving, raising or interfering of any wires, cables, or other aerial equipment.

(b) The notice provision of division (a) above shall not apply where the person owning or operating any wires, cables, or other aerial equipment has waived his or her right to advance notice.

(c) Should the moving operation be delayed, the applicant shall give the owner or his or her agent not less than 24 hours' advance notice of the actual operation.

(K.S.A. 17-1916) (1993 Code, § 4-508)

§ 4-509 DUTY OF OWNERS.

(a) It shall be the duty of the person or the city owning or operating such poles or wires after service of notice as provided herein, to furnish competent linepersons or workers to remove such poles, or raise or cut such wires as will be necessary to facilitate the moving of such house or structure. The necessary expense which is incurred thereby shall be paid by the holder of the moving permit.

(b) The owner of any wires, cables or other aerial equipment, after service of notice as provided in § 4-508, shall be liable to the permit holder for damages in an amount not to exceed \$100 per day for each day the owner shall fail or refuse to accommodate the permit holder's moving operations.

(K.S.A. 17-1917) (1993 Code, § 4-509)

§ 4-510 INTERFERING WITH POLES; WIRES.

It shall be unlawful for any person engaged in moving any house or other structure to raise, cut, or in any way interfere with any wires or poles bearing wires or any other aerial equipment.

(K.S.A. 17-1918) (1993 Code, § 4-510)

§ 4-511 DISPLAY OF LANTERNS.

It shall be the duty of any person moving any of the structures mentioned in this article upon or across any street, alley, or sidewalk or other public place, in this city, to display red lanterns thereon in such a manner as to show the extreme height and width thereof from sunset to sunrise.

(1993 Code, § 4-511)

ARTICLE 6: DANGEROUS AND UNFIT STRUCTURES

Section

- 4-601 Purpose
- 4-602 Definitions
- 4-603 Enforcing officer; duties
- 4-604 Procedure; petition
- 4-605 Same; notice
- 4-606 Same; publication
- 4-607 Same; hearing, order
- 4-608 Duty of owner
- 4-609 Same; failure to comply
- 4-610 Same; make site safe
- 4-611 Assessment of costs
- 4-612 Immediate hazard
- 4-613 Appeals from order
- 4-614 Scope of article

§ 4-601 PURPOSE.

The governing body has found that there exists within the corporate limits of the city structures which are unfit for human use or habitation because of dilapidation, defects increasing the hazards of fire or accidents, structural defects or other conditions which render such structures unsafe, unsanitary, or otherwise inimical to the general welfare of the city, or conditions which provide a general blight upon the neighborhood or surrounding properties. It is hereby deemed necessary by the governing body to require or cause the repair, closing, or demolition or removal of such structures as provided in this article.

(K.S.A. 12-1751) (1993 Code, § 4-601)

§ 4-602 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ENFORCING OFFICER. The Building Inspector, as appointed by the Mayor pursuant to § 4-205.

STRUCTURE. Includes any building, wall, superstructure, or other structure which requires location on the ground, or is attached to something having a location on the ground.
(K.S.A. 12-1750) (1993 Code, § 4-602)

§ 4-603 ENFORCING OFFICER; DUTIES.

The enforcing officer is hereby authorized to exercise such powers as may be necessary to carry out the purposes of this article, including the following:

(a) Inspect any structure which appears to be unsafe, dangerous, or unfit for human habitation;

(b) Have authority to enter upon premises at reasonable hours for the purpose of making such inspections. Entry shall be made so as to cause the least possible inconvenience to any person in possession of the structure. If entry is denied, the enforcing officer may seek an order for this purpose from a court of competent jurisdiction;

(c) Report all structures which he or she believes to be dangerous, unsafe or unfit for human habitation to the governing body; and

(d) Receive petitions as provided in this article.
(1993 Code, § 4-603)

§ 4-604 PROCEDURE; PETITION.

Whenever a petition is filed with the enforcing officer by at least five residents charging that any structure is dangerous, unsafe, or unfit for human habitation, or whenever it appears to the enforcing officer on his or her own motion that any structure is dangerous, unsafe or unfit for human habitation, he or she shall, if his or her preliminary investigation discloses a basis for such charges, report such findings to the governing body.
(1993 Code, § 4-604)

§ 4-605 SAME; NOTICE.

The governing body upon receiving a report as provided in § 4-604 shall by resolution fix a time and place at which the owner, the owner's agent, any lienholder of records and any occupant of the structure may appear and show cause why the structure should not be condemned and ordered repaired or demolished.
(K.S.A. 12-1752) (1993 Code, § 4-605)

§ 4-606 SAME; PUBLICATION.

(a) The resolution shall be published once each week for two consecutive weeks on the same day of each week. At least 30 days shall elapse between the last publication and the date set for the hearing.

(b) A copy of the resolution shall be mailed by certified mail within three days after its first publication to each owner, agent, lienholder, and occupant at the last known place of residence and shall be marked “deliver to addressee only”.

(K.S.A. 12-1752) (1993 Code, § 4-606)

§ 4-607 SAME; HEARING, ORDER.

If, after notice and hearing, the governing body determines that the structure under consideration is dangerous, unsafe, or unfit for human use or habitation, it shall state in writing its findings of fact in support of such determination and shall cause the resolution to be published once in the official city newspaper and a copy mailed to the owners, agents, lienholders of record, and occupants in the same manner provided for the notice of hearing. The resolution shall fix a reasonable time within which the repair or removal of such structure shall be commenced and a statement that if the owner of such structure fails to commence the repair or removal of such structure within the time stated or fails to diligently prosecute the same until the work is completed, the governing body will cause the structure to be razed and removed.

(1993 Code, § 4-607)

§ 4-608 DUTY OF OWNER.

Whenever any structure within the city shall be found to be dangerous, unsafe, or unfit for human use or habitation, it shall be the duty and obligation of the owner of the property to render the same secure and safe or to remove the same.

(1993 Code, § 4-608)

§ 4-609 SAME; FAILURE TO COMPLY.

(a) If, within the time specified in the order, the owner fails to comply with the order to repair, alter, improve, or vacate the structure, the enforcing officer may cause the structure to be repaired, altered, improved, or to be vacated and closed.

(b) If, within the time specified in the order, the owner fails to comply with the order to remove or demolish the structure, the enforcing officer may cause the structure to be removed and demolished.

(1993 Code, § 4-609)

§ 4-610 SAME; MAKE SITE SAFE.

Upon removal of any structure, the owner shall fill any basement or other excavation located upon the premises and take any other action necessary to leave the premises in a safe condition. If the owner fails to take such action, the enforcing officer may proceed to make the site safe.

(1993 Code, § 4-610)

§ 4-611 ASSESSMENT OF COSTS.

(a) The cost to the city of any repairs, alterations, improvements, vacating, removal, or demolition by the enforcing officer, including making the site safe, shall be reported to the City Clerk.

(b) The city shall give notice to the owner of the structure by restricted mail of the cost of removing the structure and making the premises safe and secure. The notice shall also state that payment of the cost is due and payable within 30 days following receipt of the notice.

(c) If the costs remain unpaid after 30 days following receipt of notice, the City Clerk may sell any salvage from the structure and apply the proceeds or any necessary portion thereof to pay the cost of removing the structure and making the site safe. Any proceeds in excess of that required to recover the costs shall be paid to the owner of the premises upon which the structure was located.

(d) If the proceeds of the sale of salvage or from the proceeds of any insurance policy in which the city has created a lien pursuant to K.S.A. 40-3901 et seq., and amendments thereto, are insufficient to recover the above stated costs, or if there is no salvage, the balance shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments against the lot or parcel of land on which the structure was located and the City Clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs to the County Clerk and who shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the County Treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115 and amendments thereto, but only until the full cost and applicable interest has been paid in full.

(e) If there is no salvage material, or if the moneys received from the sale of salvage or from the proceeds of any insurance policy in which the city has created a lien pursuant to K.S.A. 40-3901 et seq., and amendments thereto, are insufficient to pay the costs of the work and the costs of providing notice, such costs or any portion thereof in excess of that received from the sale of salvage or any insurance proceeds may be financed, until the costs are paid, out of the General Fund or by the issuance of no-fund warrants.

(K.S.A. 12-1755) (1993 Code, § 4-611)

§ 4-612 IMMEDIATE HAZARD.

When in the opinion of the governing body any structure is in such condition as to constitute an immediate hazard requiring immediate action to protect the public, the governing body may direct the enforcing officer to erect barricades or cause the property to be vacated, taken down, repaired, shored or otherwise made safe without delay. Such action may be taken without prior notice to or hearing of the owners, agents, lienholders, and occupants. The cost of any action under this section shall be assessed against the property as provided in § 4-611.

(K.S.A. 12-1756) (1993 Code, § 4-612)

§ 4-613 APPEALS FROM ORDER.

Any person affected by an order issued by the governing body under this article may, within 30 days following service of the order, petition the District Court of the county in which the structure is located for an injunction restraining the enforcing officer from carrying out the provisions of the order pending final disposition of the case.

(1993 Code, § 4-613)

§ 4-614 SCOPE OF ARTICLE.

Nothing in this article shall be construed to abrogate or impair the powers of the courts or of any department of the city to enforce any provisions of its charter or its ordinances or regulations, nor to prevent or punish violations thereof; and the powers conferred by this article shall be in addition to and supplemental to the powers conferred by the constitution, any other law or ordinance. Nothing in this article shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise or to exercise those powers granted specifically by K.S.A. 12-1750 to 12-1756.

(1993 Code, § 4-614)

ARTICLE 7: MOBILE HOMES

Section

- 4-701 Definitions
- 4-702 Application for permit
- 4-703 Park and trailer camp locations
- 4-704 Park and trailer camp layouts
- 4-705 Water supply
- 4-706 Sewage disposal
- 4-707 Garbage and refuse
- 4-708 Electricity
- 4-709 Fuel gas
- 4-710 Alterations and additions

§ 4-701 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

HOUSE TRAILER. A vehicular, portable dwelling unit designed especially for short term occupancy, such as: travel trailers, campers, converted buses, and other similar units whether self-propelled, pulled, or hauled and designed primarily for highway travel without a special permit.

INSPECTING OFFICER. The inspector so designated by the City Council.

MOBILE HOME. A movable, detached single-family dwelling unit with all of the following characteristics:

- (1) Designed for long-term occupancy, and containing accommodations, a flush toilet, a tub, or shower bath, kitchen facilities, and having plumbing and electrical connections provided for attachment to outside systems;
- (2) Designed and constructed on a chassis that is capable of being transported after fabrication on its own wheels, or detachable wheels, and when placed the wheels may or may not be removed;

(3) Arrives at the site where it is to be occupied as a dwelling complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, location on supports, connection to utilities, and the like; and

(4) Not necessary to be placed on a foundation as required for a permanent structure.

MOBILE HOME PARK. Land used or intended to be used by one or more occupied mobile homes.

MOBILE HOME SPACE. Land or plot of ground which is designated to accommodate one mobile home and which provides service facilities for water, sewage, and electricity.

OCCUPY, OCCUPANCY, or OCCUPIED. The use of any mobile home or house trailer by any person for living, sleeping, cooking, or eating purposes for any period of four or more consecutive days.

PARK. Mobile home park.

PERSON. Any individual, firm, trust, partnership, association, or corporation.

TRAILER CAMP. The use of a parcel or tract of land which provides space for transient occupancy and used or intended to be used for the parking of one or more house trailers, tents, or similar type living facilities. The term **TRAILER CAMP** does not include a parcel or tract of land on which unoccupied house trailers, whether new or used, are parked for the purpose of storage, inspection or sale. (1993 Code, § 4-701) (Ord. 218, passed 3-27-1978)

§ 4-702 APPLICATION FOR PERMIT.

A building permit must be obtained before the construction of any new parks or camps. Existing parks or camps constructed prior to the passage of the ordinance codified herein, when vacated, will be required to obtain a permit prior to being reoccupied. (1993 Code, § 4-702) (Ord. 218, passed 3-27-1978)

§ 4-703 PARK AND TRAILER CAMP LOCATIONS.

All parks and trailer camps shall be located in accordance with the provisions of this article and shall be further located on a well-drained site properly graded to ensure adequate drainage and freedom from stagnant pools of water. (1993 Code, § 4-703) (Ord. 218, passed 3-27-1978)

§ 4-704 PARK AND TRAILER CAMP LAYOUTS.

(a) *Area.* Each mobile home space in each park shall contain no less than 5,000 square feet for a single width mobile home, and not less than 7,000 square feet for a double width mobile home, with the boundaries properly marked. Trailer camps shall contain a minimum of 1,500 square feet for each trailer or camping space.

(b) *Setbacks.* All mobile homes and house trailers shall be so located as to maintain a setback no less than 15 feet from any public street or highway right-of-way; as to maintain a setback no less than ten feet from the edge of a park or trailer camp roadway or sidewalk; and as to maintain a setback no less than the ten feet from any side or rear boundary line when such boundary is not common to any public street or highway right-of-way.

(c) *Clearance.* All mobile homes or house trailers shall be so located as to maintain a clearance of not less than 20 feet from another mobile home, house trailer or appurtenance thereto within the same mobile home park or trailer camp; and as to maintain a clearance of not less than 20 feet from any building.

(1993 Code, § 4-704) (Ord. 218, passed 3-27-1978)

§ 4-705 WATER SUPPLY.

(a) *Required.* An accessible, safe, and potable supply of water shall be provided by each park.

(b) *Service connections.* Individual water service connections to the park water supply system shall be provided at each mobile home space. Such service connections for new parks shall be at least three-fourths inch in diameter and equipped with three-fourths inch valve outlet. The outlet shall be located at least four inches above the ground surface and protected from surface water flooding. Water service pipes shall be protected from freezing.

(1993 Code, § 4-705) (Ord. 218, passed 3-27-1978)

§ 4-706 SEWAGE DISPOSAL.

(a) *Individual sewage connections.* Each mobile home space shall be provided with no less than a three-inch sewer connection. Such individual connection shall be provided with suitable fittings so that a water-tight connection can be made between the mobile home or house trailer drain and the sewer connection. The connection shall be so connected that it can be and is closed when not connected to the mobile home or house trailer and shall be trapped in such a manner as to be maintained in an odor-free condition. Individual connections shall be made in accordance with the provisions of the applicable ordinances of the city.

(b) *Submain connections.* Individual house trailer or mobile home sewer connections in new parks shall be made to submains of sufficient size to serve the park at its ultimate maximum capacity.

(1993 Code, § 4-706) (Ord. 218, passed 3-27-1978)

§ 4-707 GARBAGE AND REFUSE.

Provisions for garbage and refuse storage, collection, and disposal shall be maintained so as to create no health hazards, rodent harborage, insect breeding areas, accident hazards, or air pollution and shall comply with the ordinances of the city.

(1993 Code, § 4-707) (Ord. 218, passed 3-27-1978)

§ 4-708 ELECTRICITY.

A weather-proof electrical outlet supplying at least 110 volts shall be provided for each mobile home space. No power lines shall be permitted to lie on the ground or to be suspended less than 15 feet above the ground over any roadway or service area.

(1993 Code, § 4-708) (Ord. 218, passed 3-27-1978)

§ 4-709 FUEL GAS.

(a) *Liquefied petroleum gas.* When liquefied petroleum gas is used, containers for such gas shall be the liquefied petroleum gas containers approved by the Interstate Commerce Commission for its intended purpose and shall be integrally attached to the mobile home or house trailer in a manner as approved by the Liquefied Petroleum Gas Association Inc., or other approved authority.

(b) *Natural gas.* Natural gas may be connected to mobile homes or house trailers under the conditions established by the supplying gas utility.

(1993 Code, § 4-709) (Ord. 218, passed 3-27-1978)

§ 4-710 ALTERATIONS AND ADDITIONS.

(a) Alterations and additions which are affected by provisions herein within or to a park and facilities shall be made only after application to the inspection officer and in conformity with all of the sections of this article.

(b) No additions of any kind shall be built onto or become a part of any mobile home or house trailer, except with the written approval of the inspection officer. Skirting of mobile homes is required, but such skirting shall not permanently attach the coach to the ground, provide a harborage for rodents or create a fire hazard.

(c) Every mobile home or house trailer regulated by this article shall be anchored to the ground by a method approved by the inspection officer. This regulation, shall from and after passage of the ordinance codified herein, apply to all new mobile home parks or trailer camps and shall also thereafter apply whenever a mobile home or house trailer is moved in, relocated, or replaced in existing parks. Jacks or stabilizers may be placed under the frame of the mobile home or house trailer to prevent movement on the springs while the trailer is parked and occupied.

(1993 Code, § 4-710) (Ord. 218, passed 3-27-1978)

CHAPTER V: BUSINESS REGULATIONS

Article

- 1. GENERAL REGULATIONS AND LICENSES**
- 2. SOLICITORS, CANVASSERS, PEDDLERS**

ARTICLE 1: GENERAL REGULATIONS AND LICENSES

[Reserved]

ARTICLE 2: SOLICITORS, CANVASSERS, PEDDLERS

Section

- 5-201 Definitions
- 5-202 License required
- 5-203 Same; application required
- 5-204 Issuance; county residents
- 5-205 Same; investigation and issuance; non-county resident
- 5-206 Same; investigation fee
- 5-207 License fee; time limits; exemptions
- 5-208 Renewal
- 5-209 Denial, revocation or suspension of license; notice
- 5-210 Appeal to governing body
- 5-211 Regulations
- 5-212 Use of streets and sidewalks
- 5-213 Disturbing the peace

§ 5-201 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CANVASSER or **SOLICITOR**. Any individual, whether resident of the city or not, whose business is mainly or principally carried on by traveling either by foot, automobile, motor truck, or any other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries, or exposes for sale a sample of the subject of such sale or whether he or she is collecting advance payments on such sales or not. Such definition shall include any person, who, for himself, herself, or for another person, hires, leases, uses, or occupies any building, structure, tent, railroad boxcar, boat, hotel room, lodging house, apartment, shop, or any other place within the city for the sole purpose of exhibiting samples and taking orders for future delivery.

PEDDLER. Any person, whether a resident of the city or not, traveling by foot, automotive vehicle, or any other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden

truck, farm products or provisions, offering and exposing the same for sale, or making sales and delivering articles to purchasers, or who, without traveling from place to place, shall sell or offer the same for sale from a wagon, automotive vehicle, railroad boxcar, or other vehicle or conveyance, and further provided, that one who solicits orders and as a separate transaction makes deliveries to purchasers as a part of a scheme or design to evade the provisions of this article shall be deemed a **PEDDLER**.

RESIDENCE. Includes every separate living unit occupied for residential purposes by one or more persons contained within any type of building or structure.

SOLICITING. Includes any one or more of the following activities:

(1) Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, services, of any kind, character, or description whatever, for any kind of consideration whatever;

(2) Seeking to obtain prospective customers for application or purchase of insurance of any type, kind, or character; or

(3) Seeking to obtain subscriptions to books, magazines, periodicals, newspapers, and every other type or kind of publication.

STREET SALESPERSON. Any person engaged in any manner in selling merchandise of any kind from a vehicle or stand temporarily located on the public streets or sidewalks of this city.

TRANSIENT MERCHANT, ITINERANT MERCHANT, or ITINERANT VENDOR. Any person, whether as owner, agent, consignee, or employee, whether a resident of the city or not, who engages in a temporary business of selling and delivering goods, wares, and merchandise within such city, and who, in furtherance of such purpose, hires, leases, uses, or occupies any building, structure, motor vehicle, tent, railroad boxcar, or boat, public room in hotels, lodging houses, apartments, shops, or any street, alley, or other place within the city, for the exhibition and sale of such goods, wares, and merchandise, either privately or at public auction. Such definition shall not be construed to include any person who, while occupying such temporary location, does not sell from stock, but exhibits samples only for the purpose of securing orders for future delivery only. The person so engaged shall not be relieved from complying with the provisions of this article merely by reason of associating temporarily with any local dealer, trader, merchant, or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant, or auctioneer.

§ 5-202 LICENSE REQUIRED.

(a) It shall be unlawful for any person to engage in any of the activities defined in the preceding sections of this article, within the corporate limits of the city without then having an unrevoked and unexpired license therefor in his or her possession and issued by the City Clerk.

(b) The governing body may waive the license requirements of this section for any person, firm, or corporation exempt from the payment of a license fee under § 5-207(d). Fund-raising activities on behalf of U.S.D. 332 are exempt from license requirements of this section.

§ 5-203 SAME; APPLICATION REQUIRED.

Before the City Clerk may issue any license required by this article, he or she shall require a sworn application in writing prepared in duplicate on a form to be supplied by the City Clerk that shall give the following information:

(a) Name and description of applicant;

(b) Permanent home address and full local address of applicant;

(c) Identification of applicant including driver's license number, date of birth, expiration date of license, and description of applicant;

(d) Identification of vehicle used by applicant including license therefor used by applicant in conducting his or her business;

(e) A brief description of the nature of the business to be carried on or the goods to be sold and the length of time such applicant has been engaged in the business;

(f) If employed, the name and address of the employer, together with credentials establishing such relationship, including the authority by the employer authorizing the applicant to represent the employer in conducting business;

(g) The length of time that business is proposed to be carried on;

(h) The place where services are to be performed or where the goods or property proposed to be sold or orders taken for the sale thereof are manufactured or produced, where such goods or products are located at the time the application is filed, and the proposed method of delivery;

(i) A photograph of the applicant, taken within 90 days prior to the date of making application which picture shall be at least two inches by two inches showing the head and shoulders of the applicant in a clear and distinguishing manner; or in lieu thereof, the fingerprints of the applicant may be taken by the Chief of Police and filed with the application;

(j) A statement as to whether or not the applicant has within two years prior to the date of the application been convicted of any crime, misdemeanor (other than minor traffic violations), or violation of any municipal law regulating peddlers, solicitors, or canvassers and giving the nature of the offenses, the punishment assessed therefor, if any, and the city and state where conviction occurred; and

(k) The applicant's state sales tax number.

§ 5-204 ISSUANCE; COUNTY RESIDENTS.

(a) Except as provided in § 5-209, if the applicant is a current resident of the county, upon receipt of an application for a license and payment of the license fee, the City Clerk shall issue the license. Such license shall contain the signature and seal of the issuing officer and shall show the name and address of the licensee, the date of issuance, and length of time the license shall be operative, and the nature of the business involved. The City Clerk shall keep a permanent record of all such licenses issued and submit a copy of such license to the Chief of Police. The licensee shall carry the license certificate at all times.

(b) If the applicant is not a current resident of the county, a license will not be issued until after investigation and payment of the investigation fee as provided in §§ 5-205 and 5-206.

§ 5-205 SAME; INVESTIGATION AND ISSUANCE; NON-COUNTY RESIDENT.

(a) Upon receipt of the above application from an applicant who is not a current resident of the county, the City Clerk shall refer the same to the Chief of Police who shall cause an investigation of the facts stated therein to be made within not to exceed five days.

(b) If as a result of the investigation, the applicant's character or business responsibility is found to be unsatisfactory or the facts stated therein to be untrue, the Chief of Police shall endorse on such application his or her findings and endorse his or her disapproval of the application and the reasons for the same and shall return the application to the City Clerk who then shall notify the applicant that his or her application is disapproved and that no license will be issued.

(c) If however, the investigation of such application discloses that the character and business responsibility and the facts stated in the application are satisfactory and true, the Chief of Police shall endorse his or her findings and approval on the application and return the same to the City Clerk who shall, upon payment of the license and investigation fees prescribed, issue a license to the applicant to engage in the business described in the application. Such license shall contain the signature and seal of the issuing officer and shall show the name and address of the licensee, the date of issuance and length of time the license shall be operative, and the nature of the business involved. The City Clerk shall keep a permanent record of all such licenses issued and submit a copy of such license to the Chief of Police. The licensee shall carry the license certificate at all times.

§ 5-206 SAME; INVESTIGATION FEE.

At the time of filing the application, a fee as set by the city shall be paid to the City Clerk to cover the cost of investigation of the facts stated in the foregoing application.

§ 5-207 LICENSE FEE; TIME LIMITS; EXEMPTIONS.

(a) Except as provided in division (c) below, the fee for the license required pursuant to § 5-202 shall be in the amount as set by the city at \$10 per each day, or portion thereof, that the licensee shall

operate within the city limits. In no event, however, shall fees in excess of an amount set by the city be collected from a licensee during any six-month period of time.

(b) Any such license granted upon application as required hereinabove shall be limited to and effective only on the days set out in the license. Solicitation or sales by any peddler, solicitor, or canvasser shall be conducted only between the hours of 8:00 a.m. and 9:00 p.m.

(c) Persons and firms not having a permanently established place of business in the city, but having a permanently established house-to-house or wholesale business shall receive a license as required by § 5-202 upon the payment of a fee as set by the city for any year, and may make solicitations or sales only between the hours of 8:00 a.m. and 9:00 p.m., or upon invitation at any hour.

(d) No license fee shall be required of:

(1) Any person selling products of the farm or orchard actually produced by the seller;

(2) Any businesses, trades, or occupations that are part of fairs or celebrations sponsored by the city or any other governmental subdivision, or the state, or when part of all of the expenses of the fairs or celebrations are paid for by the city, any other governmental subdivision, or the state; and

(3) Any not-for-profit or charitable organization as determined by the governing body.
(K.S.A. 12-1617)

§ 5-208 RENEWAL.

All licenses issued shall be subject to renewal upon a showing of compliance with §§ 5-202 and 5-203 within a six-month period prior to the renewal date. The City Clerk need not require an additional application under § 5-203 or an additional investigation and investigation fee under §§ 5-205 and 5-206 unless complaints have been received of violations of the conditions in which any license has heretofore been issued. The City Clerk shall not renew or extend any license if there is satisfactory evidence of any grounds for the suspension or revocation of any prior license, and the applicant shall be required to apply for a license as in the case of an original license.

§ 5-209 DENIAL, REVOCATION OR SUSPENSION OF LICENSE; NOTICE.

The City Clerk or Chief of Police may deny any application or may revoke or suspend for a period of not to exceed 30 days any license issued under this article, for any of the following causes:

(a) Fraud, misrepresentation, or false statement contained in the application for license;

(b) Fraud, misrepresentation, or false statement made in the course of carrying on the business;

(c) Any violation of this article;

(d) Conducting a business as defined in § 5-201 in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the city. Notice of the denial, revocation, or suspension of a license shall be given in writing to the applicant or mailed to his or her last known address and the City Clerk shall set forth the grounds of such denial, revocation, or suspension; and

(e) Conviction of the crime of theft, larceny, fraud, embezzlement, or any felony within two years before the application date.

§ 5-210 APPEAL TO GOVERNING BODY.

(a) Any person aggrieved by the action of the Chief of Police or City Clerk in the denial of an application or revocation or suspension of a license as provided in this article, shall have the right of appeal to the governing body.

(b) Such appeal shall be taken by filing with the City Clerk within 14 days after notice of revocation, suspension, or denial of the license has been given to or mailed to such applicant's last known address and setting forth the grounds for appeal.

(c) The governing body shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the applicant in the same manner as provided herein for notice of denial, revocation, or suspension.

(d) The decision and order of the governing body on such appeal shall be final and conclusive.

§ 5-211 REGULATIONS.

(a) It shall be unlawful for any licensee to make false or fraudulent statements concerning the quality of nature of his or her goods, wares, and merchandise for the purpose of inducing another to purchase the same.

(b) Licensees are required to exhibit their license at the request of any person to whom they attempt to sell their goods, wares, and merchandise or take orders for future delivery of the same.

§ 5-212 USE OF STREETS AND SIDEWALKS.

Except when authorized in writing by the City Clerk, no peddler, solicitor, or canvasser or any other person shall have exclusive right to any location in the public streets for the purpose of selling or soliciting sales, nor shall any person be permitted a stationary location in the public streets, nor shall any person be permitted to operate in the sidewalks and streets within the fire limits of the city or any congested area where his or her operations might impede or inconvenience the public.

§ 5-213 DISTURBING THE PEACE.

Except when authorized in writing by the City Clerk, no licensee, nor any person in his or her behalf, shall use any sound device, including any loud-speaking radio or sound-amplifying system upon any of the streets, alleys, parks, or other public places of the city or upon any private premises in the city where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares, or merchandise that such licensee proposes to sell.

CHAPTER VI: CITY ELECTIONS

Article

1. CITY ELECTIONS

ARTICLE 1: CITY ELECTIONS

Section

- 6-101 Conduct of election
- 6-102 Hours of voting
- 6-103 Election; governing body
- 6-104 Commencement of terms of office; oath of office

§ 6-101 CONDUCT OF ELECTION.

The election of city officials shall be conducted in all respects as provided by the laws of the state governing the holding of city elections.

(K.S.A. 25-2101 et seq.) (1993 Code, § 6-101)

§ 6-102 HOURS OF VOTING.

At all city elections, the polls shall be open at 7:00 a.m. and close at 7:00 p.m., unless different hours are set and publicly announced by the County Election Officer.

(K.S.A. 25-2111; K.S.A. 26-206) (1993 Code, § 6-102)

§ 6-103 ELECTION; GOVERNING BODY.

(a) Those governing body positions with terms expiring in April 2017, shall expire on the second Monday in January of 2018, when the city officials elected in the November 2017 general election take office. Those governing body positions with terms expiring in April 2019, shall expire on the second Monday in January of 2020, when the city officials elected in the November 2019 general election take office.

(b) General elections shall take place on the Tuesday succeeding the first Monday in November 2017, and succeeding general elections will be held every two years on the Tuesday succeeding the first Monday in November for all such governing body positions whose terms have expired. A Mayor and two Council members shall be elected at one election and the remaining three Council members shall be elected at the succeeding election. The Mayor and all Council members shall have four year terms.

(1993 Code, § 6-103) (Charter Ord. 17-01, passed 1-6-2017)

§ 6-104 COMMENCEMENT OF TERMS OF OFFICE; OATH OF OFFICE.

(a) The term of office for newly elected city officials shall commence on the second Monday in January following certification of the election by the county election officer. The Mayor and Council members shall hold office until their successors are elected and qualified

(b) Every person elected or appointed to city office, before entering upon the duties of such office, shall take and subscribe an oath or affirmation as specified in K.S.A. 54-106, and amendments thereto, and every such oath or affirmation shall be filed with the City Clerk.

(K.S.A. 25-2120) (Charter Ord. 17-01, passed 1-6-2017)

CHAPTER VII: FIRE

Article

- 1. FIRE DEPARTMENT**
- 2. FIRE PREVENTION**
- 3. FIREWORKS**
- 4. FALSE ALARMS**

ARTICLE 1: FIRE DEPARTMENT

Section

- 7-101 City Fire Department established
- 7-102 Membership; fire drill
- 7-103 Supervision of Department
- 7-104 Fire Chief; powers
- 7-105 Same; records
- 7-106 Assistant Chief
- 7-107 Private use of fire equipment
- 7-108 Fire equipment; emergency right-of-way and use
- 7-109 Reserved
- 7-110 Obstruction of fire hydrant
- 7-111 Contracts for firefighting services approved

§ 7-101 CITY FIRE DEPARTMENT ESTABLISHED.

The Fire Department of the city is hereby established and the Department shall be organized to consist of a Fire Chief who shall be appointed by the Mayor and confirmed by the City Council. The Fire Chief shall appoint assistant chiefs and shall appoint the firefighters.
(1993 Code, § 7-101)

§ 7-102 MEMBERSHIP; FIRE DRILL.

Members of the Fire Department shall all be volunteers. They shall meet at least once each month for practice and drill. The Chief of the Fire Department shall keep a record of attendance of such meetings. Any member who shall fail to attend six consecutive meetings shall automatically become expelled from membership at the Chief's discretion.
(1993 Code, § 7-102)

§ 7-103 SUPERVISION OF DEPARTMENT.

The Chief of the Fire Department shall be under the supervision of the Mayor and shall have immediate superintendency and control over and be responsible for the care and condition of the fire apparatus and equipment. It shall be the Chief's duty to see that all such apparatus and equipment is

ready at all times for immediate use. It shall also be the Chief's duty to submit a written report as to the condition of all fire apparatus and equipment to the governing body at its first meeting in October of each year.

(1993 Code, § 7-103)

§ 7-104 FIRE CHIEF; POWERS.

(a) The Fire Chief shall be responsible for the discipline of the members and is hereby given authority to suspend or expel any member for refusal to obey orders or for misconduct or failure to do his or her duty at a fire.

(b) The Chief shall also have the right to summon any and all persons present to aid in extinguishing a fire or to aid in removing personal property from any building on fire or in danger thereof and in guarding the same.

(c) At fires, the Chief shall have full power, control, and command of all persons present and shall direct the use of the fire apparatus and equipment, and command the firefighters in the discharge of their duties. He or she shall take such measures as he or she shall deem proper and necessary in the preservation and protection of property and extinguishing of fires.

(1993 Code, § 7-104)

§ 7-105 SAME; RECORDS.

The Chief of the Fire Department shall keep in convenient form a complete record of all fires. Such information shall include the time and location, construction of building, owner, occupancy, how extinguished, value of building and contents, loss on building and contents, insurance on building and contents, members responding to the alarm, and any other information deemed advisable.

(1993 Code, § 7-105)

§ 7-106 ASSISTANT CHIEF.

In the absence of the Chief, the Assistant Fire Chief shall perform all the duties and have all the authority and responsibility of the Chief as conferred by this chapter.

(1993 Code, § 7-106)

§ 7-107 PRIVATE USE OF FIRE EQUIPMENT.

It shall be unlawful for any person or persons to take away or use any fire apparatus or equipment for any private purpose or for any person willfully and without proper authority to remove, take away, keep, or conceal any tool, appliance, equipment, or other article used in any way by the Fire Department.

(1993 Code, § 7-107)

§ 7-108 FIRE EQUIPMENT; EMERGENCY RIGHT-OF-WAY AND USE.

(a) All fire apparatus and equipment is hereby given and granted the exclusive right-of-way over and through all streets, avenues, alleys, and public thoroughfares in the city while en route to fires or in response to any alarm, and it shall be unlawful for any person or persons to in any manner obstruct or hinder the apparatus or equipment.

(b) All emergency vehicles of the Fire Department, while proceeding on official business, shall be operated in strict accordance with the requirements of the state statutes regarding the operation of emergency vehicles, and each departmental member assigned to the operation of emergency vehicles shall familiarize himself or herself with the requirements of the law and govern himself or herself accordingly. Any operator violating the provisions of the state law shall be liable for disciplinary action. (1993 Code, § 7-108)

§ 7-109 RESERVED.

(1993 Code, § 7-109)

§ 7-110 OBSTRUCTION OF FIRE HYDRANT.

It shall be unlawful for any person to place or cause to be placed upon or about any fire hydrant any rubbish, building material, fence, or other obstruction of any character, or in any manner obstruct, hinder, or delay the Fire Department in the performance of its duties in case of fire. Nor shall any person fasten to any fire hydrant any guy rope or brace, nor stand any vehicle within 15 feet of any such hydrant.

(1993 Code, § 7-110)

§ 7-111 CONTRACTS FOR FIREFIGHTING SERVICES APPROVED.

The city shall be authorized to enter into contracts for the provision of firefighting services for the following townships in the county: Dresden, Rural, Eureka, Union, and the north one-third of Kingman. Said contracts shall be approved by the governing body and may be amended as necessary upon approval of the governing body. The rates charged for firefighting services in these contracts shall be determined by the governing body and shall be sufficient to pay the city for the reasonable use of equipment and for the cost of material used on the run and fighting the fire, to pay the firefighters, and to enable the city to carry a sufficient amount of insurance to indemnify it for loss or damage to persons or property.

(Ord. 651, passed 1-25-2016)

ARTICLE 2: FIRE PREVENTION

Section

- 7-201 Fire Prevention Code incorporated
- 7-202 Same; enforcement
- 7-203 Same; amendments
- 7-204 Open burning
- 7-205 Accumulation of rubbish and trash
- 7-206 Stacking of hay or straw
- 7-207 Keeping of packing materials
- 7-208 Storage of ashes
- 7-209 Filling gasoline tanks of motor vehicles
- 7-210 Fire hazards generally
- 7-211 Same; inspections to discover
- 7-212 Abatement of fire hazards; issuing order
- 7-213 Same; service of order; records

§ 7-201 FIRE PREVENTION CODE INCORPORATED.

There is hereby adopted by the governing body of the city, for the purpose of prescribing regulations, governing conditions hazardous to life and property from fire or explosion, that certain code and standards known as the International Fire Code, edition of 2015, including all the appendix chapters, published by the International Code Council, one copy shall be filed in the office of the Clerk of the city, and the same are hereby adopted and incorporated as fully as if set out at length herein, and from the date on which the ordinance codified herein shall take effect, the provisions thereof shall be controlling within the limits of the city.

(1993 Code, § 7-201)

§ 7-202 SAME; ENFORCEMENT.

The code hereby adopted shall be enforced by the Chief of the Fire Department.

(1993 Code, § 7-202)

§ 7-203 SAME; AMENDMENTS.

(a) Wherever the word *MUNICIPALITY* is used in the code hereby adopted, it shall be held to mean the City of Cunningham.

(b) All sections of the Uniform Fire Code relating to fireworks are hereby deleted in their entirety. (1993 Code, § 7-203)

§ 7-204 OPEN BURNING.

It shall be unlawful for any person to participate in open burning of grass or otherwise without first obtaining a burn permit from the city. Said burn permit may be obtained from the office of the city at 119 North Main.

(1993 Code, § 7-204) (Ord. 7-204, passed 3-29-2010)

§ 7-205 ACCUMULATION OF RUBBISH AND TRASH.

It shall be unlawful for any person to allow to accumulate or to keep in any part of any building or outside of and adjacent to any building or in any alley, sidewalk, street, or premises within 30 feet of any building any rubbish, trash, waste paper, excelsior, empty boxes, barrels, or other combustibles that shall constitute a fire hazard.

(1993 Code, § 7-205)

§ 7-206 STACKING OF HAY OR STRAW.

It shall be unlawful for any person to deposit, stack, or store any hay or straw within 500 feet of any building located inside the fire limits of the city.

(1993 Code, § 7-206)

§ 7-207 KEEPING OF PACKING MATERIALS.

It shall be unlawful to keep excelsior or other packing material in any other than metal or wood metal lined boxes or bins having self-closing or automatic covers. All refuse and trash from rooms where packing or unpacking is done shall be removed daily.

(1993 Code, § 7-207)

§ 7-208 STORAGE OF ASHES.

It shall be unlawful to store ashes inside of any non-fire-proof building unless they are stored in a noncombustible container or receptacle, and a clearance of at least five feet shall be maintained between such container or receptacle and any combustible materials not placed therein. Ashes shall not be stored outside of any building in wooden, plastic, or paper product receptacles or dumped in contact with or in close proximity to any combustible materials.

(1993 Code, § 7-208)

§ 7-209 FILLING GASOLINE TANKS OF MOTOR VEHICLES.

The engines of motor vehicles shall be stopped when the gasoline tanks of such vehicles are being filled with gasoline at service stations or other places where gasoline is supplied to motor vehicles. The

driver or person in control of such vehicle when the gasoline tank of same is being filled who refuses, neglects, or fails to stop the engine of such vehicle shall likewise be guilty of a violation of this code. (1993 Code, § 7-209)

§ 7-210 FIRE HAZARDS GENERALLY.

It is unlawful for any person to cause or create anywhere within the city, or to permit on any premises under his or her control, any situation or condition that is conducive to or likely to cause or permit the outbreak of fire or the spreading of fire. Any situation or condition conducive to the outbreak of or spreading of fire is declared to be a fire hazard. The violation of or failure to comply with any law pertaining to the storage, handling, or use of inflammable oils, explosives, liquefied petroleum gases, or fertilizers and all wires and other conductors charged with electricity, is declared to be a fire hazard. The placing of stools, chairs, or any other obstruction in the aisles, hallways, doorway, or exit of any theater, public hall, auditorium, church, or other place of indoor public assemblage, or the failure to provide any such place of public assemblage with sufficient, accessible, and unobstructed fire exits and escapes is also declared to be a fire hazard. The obstruction of any street, avenue, alley, fire hydrant, or any other condition that might delay the Fire Department in fighting fire is declared to be unlawful. (1993 Code, § 7-210)

§ 7-211 SAME; INSPECTIONS TO DISCOVER.

It shall be the duty of the Fire Chief to inspect or cause to be inspected by Fire Department officers or members, as often as may be necessary, all buildings, particularly all mercantile buildings, manufacturing plants, warehouses, garages, hotels, boarding houses, rooming houses, theaters, auditoriums, and all places of public assemblage, for the purpose of discovering the violation of any fire preventive law or any fire hazard and ascertaining and causing to be corrected any conditions liable to cause fires and to see that all places of public assemblage, hotels, and rooming houses have sufficient and unobstructed facilities for escape therefrom in case of fire. (1993 Code, § 7-211)

§ 7-212 ABATEMENT OF FIRE HAZARDS; ISSUING ORDER.

Whenever any officer or member of the Fire Department shall find or discover any fire hazard or shall find in any building or upon any premises combustible or explosive material or dangerous accumulation of rubbish or unnecessary accumulation of paper, boxes, shavings, or any other inflammable material, so situated as to endanger property by the probability of fire, or shall find or discover any violation of this chapter or any other law hazardous to public safety from fires, the Fire Chief shall order the fire hazard or danger from the fire forthwith abated and remedied and such order shall be complied with immediately by the owner or occupant of such buildings or premises. If the hazard or condition ordered abated and remedied is a violation of, or a failure to comply with any law, the Fire Chief shall report the matter to the City Attorney and he or she shall, if he or she deems it advisable, prosecute the offender. (1993 Code, § 7-212)

§ 7-213 SAME; SERVICE OF ORDER; RECORDS.

Any order made under § 7-212 shall be in writing and may be served personally upon the owner or occupant of the premises or by leaving it with any person in charge of the premises or if the premises are unoccupied and the owner is a non-resident of the city, then by mailing a copy to the owner's last known post-office address. One notice to either the occupant or owner shall be sufficient. The Fire Chief shall keep a record of and copies of all such orders and notices and shall follow up such notices at the expiration of the time for compliance therewith and when complied with make proper entry and, if not complied with, file complaint with the Municipal Court against the property owner and/or occupant. (1993 Code, § 7-213)

ARTICLE 3: FIREWORKS

Section

- 7-301 Fireworks defined
- 7-302 Fireworks prohibited
- 7-303 Same: exceptions; discharges and sale
- 7-304 Reserved
- 7-305 Permit for sale of fireworks required; fee; issuance
- 7-306 Permit for public fireworks display required
- 7-307 Approved fireworks; bottle rockets prohibited
- 7-308 Discharge on public property prohibited
- 7-309 Throwing prohibited
- 7-310 Sale of fireworks; where prohibited
- 7-311 Retail display of fireworks
- 7-312 Fire extinguishers required
- 7-313 Restrictions as to gasoline installations
- 7-314 Authority of Fire Chief
- 7-315 Banning fireworks

§ 7-301 FIREWORKS DEFINED.

For the purpose of this article, the following definition shall apply unless the context clearly indicates or requires a different meaning.

FIREWORKS. Those items as defined by the rules and regulations of the State Fire Marshal, and shall include, but not be limited to: firecrackers, torpedoes, sparklers, Roman candles, sky rockets, pin wheels, cap, or toy pistols (except such pistols or any like device designed to discharge paper caps containing not more than 0.25 grains of explosive mixture), canes, bombs, cannons, or other like devices and all classes of fireworks that may be shot into the air or propelled over the ground by explosive discharges or any device using blank cartridges.

(1993 Code, § 7-301)

§ 7-302 FIREWORKS PROHIBITED.

It is unlawful for any person, firm, or corporation to keep, have in possession, store, sell, offer for sale, give away, fire, or discharge within the city at any time any firecracker with casings the external

dimensions of which exceed one and one-half inches in length by one-quarter inch in diameter, designed to produce an audible effect, the total pyrotechnic composition exceeding two grains in weight, any skyrocket, any device known as a cherry bomb, or Italian bomb, or spit devil or torpedo discharged by fuse or concussion, or similar device by whatever name known or designated, or any device of an explosive nature containing shot, pebbles, metal substances, or other missile that might be propelled by an explosive, or any other article or device not permitted to be discharged, used, or displayed by the regulations governing the sale and handling of fireworks in the state issued by the State Fire Marshal. (1993 Code, § 7-302) (Ord. 407, passed 9-27-1999)

§ 7-303 SAME: EXCEPTIONS; DISCHARGES AND SALE.

It is unlawful for any person, firm or corporation to have, keep, store, sell, offer for sale, give away, fire or discharge within the city fireworks, as defined in § 7-302, except in the celebration of Independence Day, and from and inclusive of June 27 to July 4, or the following day if Independence Day be celebrated on July 5 of each year. In order to sell any fireworks within the city limits, individuals desiring to sell the same shall obtain a permit to do so from the City Clerk. In addition, the governing body may grant permission for the public display of fireworks by responsible individuals; provided further that, such display shall be of such character, and the fireworks so acquired, kept, handled, located, discharged, and displayed as shall not be hazardous to surrounding property, or to unduly endanger any person, and that such display shall not be located or held within 300 feet of any building or other flammable structure.

(1993 Code, § 7-303) (Ord. 407, passed 9-27-1999)

§ 7-304 RESERVED.

§ 7-305 PERMIT FOR SALE OF FIREWORKS REQUIRED; FEE; ISSUANCE.

(a) It shall be unlawful for any person to sell, display for sell, offer to sell, or give away any type of fireworks within the city without first paying a fee as set by the city per establishment or premises to the City Clerk and applying for and securing a permit therefor on or before June 27 of the permit year.

(b) No permit shall be issued for any location where retail sales are not permitted under the zoning laws. Before a permit is issued, an inspection will be made of the applicant's facility for compliance with this chapter and other pertinent laws, and no permit shall be issued for any premises not in compliance with such laws. Upon qualifying for the permit, the permittee shall prominently display the same at the establishment or premises where fireworks are to be sold or displayed for sale. The permit fee shall not be refundable upon failure to qualify for the permit or withdrawal or cancellation of the application or permit.

§ 7-306 PERMIT FOR PUBLIC FIREWORKS DISPLAY REQUIRED.

(a) It shall be unlawful for any person to give or provide a fireworks display for the public or for organized groups without first obtaining a permit to do so by making application at least 30 days in

advance of the desired display. Approval of the permit shall be by the governing body. No permit shall be approved unless the applicant furnishes a certificate of public liability insurance for the display in a minimum amount of \$1,000,000, written by an insurance carrier licensed to do business in the state, conditioned as being non-cancellable, except by giving ten days' advance written notice to the City Clerk. In the event of cancellation of the insurance prior to the display, the permit shall automatically be revoked and void. The application for the permit shall clearly state:

- (1) The name of the applicant;
- (2) The group for which the display is planned;
- (3) The location of the display;
- (4) The date and time of the display;
- (5) The nature or kind of fireworks to be used;
- (6) The name of the person, firm, or corporation that will make the actual discharge of the fireworks; and
- (7) Anticipated need for police, fire, or other municipal services.

(b) No permit shall be issued if the location, nature of the fireworks, or other relevant factor is such as to create an undue hazard or risk of harm or damage to persons or property.

§ 7-307 APPROVED FIREWORKS; BOTTLE ROCKETS PROHIBITED.

(a) All fireworks offered for sale and discharged within the city shall be of a type that has been tested and approved for sale and use within the state by the State Fire Marshal.

(b) Bottle rockets and other similar self-propelled firework or fireworks devices consisting of a tube and attached guiding stock or rod shall not be sold or discharged in the city.
(1993 Code, § 7-304)

§ 7-308 DISCHARGE ON PUBLIC PROPERTY PROHIBITED.

It shall be unlawful for any person to discharge, ignite, or fire any fireworks upon any public property of the city, except on public streets and the ball diamond and football field in the west city park, where it is authorized to do so and so as not to interfere with traffic or violate any laws.
(1993 Code, § 7-305) (Ord. 407, passed 9-27-1999)

§ 7-309 THROWING PROHIBITED.

It shall be unlawful for any person to throw, cast, or propel fireworks of any kind in the direction of or into the path of any animal, person, or group of persons, or from, in the direction of, or into any vehicle of any kind.

(1993 Code, § 7-306)

§ 7-310 SALE OF FIREWORKS; WHERE PROHIBITED.

(a) It shall be unlawful for fireworks to be stored, sold, or displayed for sale in a place of business where paint, oils, varnishes, turpentine, or gasoline or other flammable substances are kept, unless such fireworks are in a separate and distinct section or department of the premises.

(b) Where the Fire Chief deems there is a fire hazard, he or she is hereby authorized to have such hazard abated.

§ 7-311 RETAIL DISPLAY OF FIREWORKS.

(a) All retailers are forbidden to expose fireworks where the sun shines through glass on the merchandise displayed, except where such fireworks are in the original package.

(b) All fireworks displayed for sale must remain in original packages, except where an attendant is on constant duty at all times where such fireworks are on display; provided that, fireworks in open stock may be kept in show cases or counters out of the reach of the public without an attendant being on duty.

(c) Signs reading "Fireworks for Sale - No Smoking Allowed" shall be displayed in the section of a store or premises set aside for the sale of fireworks.

§ 7-312 FIRE EXTINGUISHERS REQUIRED.

(a) Two functioning and approved fire extinguishers must be provided and kept in close proximity to the stock of fireworks in all permanent buildings where fireworks are stored, sold, or displayed for sale.

(b) Small stands, temporarily erected to be used as a place for storing and selling fireworks only, shall have one such fire extinguisher, or in lieu of the fire extinguisher, a pressurized water hose with nozzle end within five feet of the fireworks stand.

(1993 Code, § 7-307)

§ 7-313 RESTRICTIONS AS TO GASOLINE INSTALLATIONS.

It shall be unlawful to store, keep, sell, display for sale, or discharge any fireworks within 50 feet of any gasoline pump, gasoline filling station, gasoline bulk station, or any building in which gasoline

or volatile liquids are sold in quantities in excess of one gallon, except in stores where cleaners, paints, and oils are handled in sealed containers only.

(1993 Code, § 7-308)

§ 7-314 AUTHORITY OF FIRE CHIEF.

The Chief of the Fire Department is authorized to seize and confiscate all fireworks that may be kept, stored, or used in violation of any section of this article, and all of the rules of the State Fire Marshal. He or she shall dispose of all such fireworks as may be directed by the governing body.

(1993 Code, § 7-309)

§ 7-315 BANNING FIREWORKS.

The person designated by the city shall have the authority and discretion to ban the discharge of all fireworks within the corporate limits of the city if the weather conditions make discharge of fireworks in the city hazardous to persons or property.

ARTICLE 4: FALSE ALARMS

Section

- 7-401 Definitions
- 7-402 Notice; fee
- 7-403 Appeals

§ 7-401 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALARM SYSTEMS. An assembly of equipment or devices, or a single device installed upon a house, building, or other structure fixed upon real estate which when activated emits an audible, visual, or electronic signal that is designated to be heard, seen or received by persons outside of the protected house, building, or other structure and is reasonably expected to illicit or cause a response by the city's Fire Department.

ALARM USER. Any person who owns, operates, manages, or is otherwise in control of an alarm system, or who owns, operates, manages, or is otherwise in control of the building, structure, premises, or facility upon which such alarm system is located.

FALSE ALARM. The activation of an alarm system resulting in a response by law enforcement or fire personnel when a situation requiring a response does not, in fact, exist. A **FALSE ALARM** may be the result of, but not limited to, mechanical or electrical failure, malfunction, improper installation, improper adjustment, accidental tripping, misoperation, misuse, defect, or negligence of a person. (1993 Code, § 7-111) (Ord. 520, passed 10-26-2009)

§ 7-402 NOTICE; FEE.

(a) Whenever the Fire Chief of the city determines that an alarm was a false alarm, he or she will give notice to the alarm user of such determination. There will be no fees assessed for the first false alarm. Starting with the second false alarm, the following fees will be assessed.

- (1) There shall be a fee of \$50 assessed for the second false alarm.

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- (2) There shall be a fee of \$100 assessed for the third false alarm.
- (3) There shall be a fee of \$150 assessed for the fourth false alarm.
- (4) There shall be a fee of \$200 assessed for the fifth false alarm.
- (5) There shall be a fee of \$250 assessed for the sixth false alarm and subsequent.

(b) Whenever false alarms fees are assessed under the proceeding section, the Fire Chief shall give notice of such assessment to the alarm user. The alarm user shall submit the fees to the Fire Chief within 30 days of the notice. It is unlawful for any person to fail to pay the false alarm fees assessed by this article. It shall not be a defense to this section that the alarm user did not receive the notice required herein.

(1993 Code, § 7-111) (Ord. 520, passed 10-26-2009)

§ 7-403 APPEALS.

An alarm user who has been notified by the Fire Chief that an alarm has been recorded as a false alarm may appeal such determination to the City Council. At which time, the City Council shall consider the facts and issues relating to the same and make a decision thereon.

(1993 Code, § 7-111) (Ord. 520, passed 10-26-2009)

CHAPTER VIII: HEALTH AND WELFARE

Article

- 1. BOARD OF HEALTH**
- 2. HEALTH NUISANCES**
- 2A. ENVIRONMENTAL CODE**
- 3. JUNKED MOTOR VEHICLES ON PRIVATE PROPERTY**
- 4. WEEDS**
- 5. MINIMUM HOUSING CODE**
- 6. RODENT CONTROL**
- 7. INSURANCE PROCEEDS FUND**

ARTICLE 1: BOARD OF HEALTH

Section

- 8-101 Board of Health created
- 8-102 City Health Officer; duties

§ 8-101 BOARD OF HEALTH CREATED.

The Mayor together with the City Council shall be the Board of Health and shall be authorized and empowered to enforce all sanitary laws to the city.

§ 8-102 CITY HEALTH OFFICER; DUTIES.

The County Health Nurse is hereby designated the City Health Officer and shall have the authority to:

- (a) Cause health investigations and inspections to be made as required by the laws of the state and of the city;
- (b) Make recommendations to the Board respecting the improvement of health of the inhabitants of the city;
- (c) Make all health reports required by the State Department of Health and Environment, Division of Health;
- (d) Prepare an annual health report of the city for submission to the governing body; and
- (e) Perform such other duties as may be required of him or her under the laws of the state or of the city.

ARTICLE 2: HEALTH NUISANCES

Section

8-201	Nuisances unlawful; defined
8-202	Public officer
8-203	Complaints; inquiry and inspection
8-204	Right of entry
8-205	Order of violation
8-206	Same; contents
8-207	Failure to comply; penalty
8-208	Abatement
8-209	Hearing
8-210	Costs assessed

§ 8-201 NUISANCES UNLAWFUL; DEFINED.

It shall be unlawful for any person to maintain or permit any nuisance within the city as defined, without limitation, as follows:

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

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

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

(d) All stagnant ponds or pools of water;

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

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

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

(h) Any fence, structure, thing, or substance placed upon or being upon any street, sidewalk, alley, or public ground so as to obstruct the same, except as permitted by the laws of the city.
(K.S.A. 21-6204) (1993 Code, § 8-101)

§ 8-202 PUBLIC OFFICER.

The Mayor may assume the responsibilities of or appoint some qualified individual to be and perform the duties of Public Officer as required, subject to the consent and approval of the governing body. The Public Officer shall be charged with the administration and enforcement of this article.
(1993 Code, § 8-102)

§ 8-203 COMPLAINTS; INQUIRY AND INSPECTION.

The public officer shall make inquiry and inspection of premises upon receiving a complaint or complaints in writing signed by two or more persons stating that a nuisance exists and describing the same and where located or is informed that a nuisance may exist by the Board of Health, Chief of Police, or the Fire Chief. The public officer may make such inquiry and inspection when he or she observes conditions that appear to constitute a nuisance. Upon making any inquiry and inspection, the public officer shall make a written report of findings.
(1993 Code, § 8-103)

§ 8-204 RIGHT OF ENTRY.

The public officer has the right of access and entry upon private property at any reasonable time to the extent allowed by law for the purpose of making inquiry and inspection to determine if a nuisance exists.
(1993 Code, § 8-104)

§ 8-205 ORDER OF VIOLATION.

(a) The governing body shall serve upon the owner, any agent of the owner of the property, or any other person, corporation, partnership or association found by the public officer to be in violation of § 8-201 an order stating the violation. The order shall be served on the owner or agent of such property by certified mail, return receipt requested, or by personal service. If the property is unoccupied and the owner is a non-resident, then by mailing the order by certified mail, return receipt requested, to the last known address of the owner.

(b) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding 24-month period, the governing body of the city may provide notice of the issuance of any further orders

to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication, or first class mail. If the property is unoccupied and the owner is a non-resident, notice provided by this section shall be given by telephone communication or first class mail.

(K.S.A. 12-1617e) (1993 Code, § 8-105)

§ 8-206 SAME; CONTENTS.

(a) The order shall state the condition(s) that is (are) in violation of § 8-201.

(b) The order shall also inform the person, corporation, partnership, or association that:

(1) He, she, or they shall have ten days from the receipt of the order to abate the condition(s) in violation of § 8-201; provided, however, that the governing body (or its designee named in § 8-205) shall grant one or more extensions of the ten-day-period if the owner or agent of the property demonstrates that due diligence is being exercised in the abatement of the conditions in violation of § 8-201; or

(2) He, she, or they have ten days from the receipt of the order, plus any additional time granted under division (a) above, to request a hearing before the governing body or its designated representative of the matter as provided by § 8-209.

(c) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by § 8-207 and/or abatement of the condition(s) by the city as provided by § 8-208.

(K.S.A. 12-1617e) (1993 Code, § 8-106)

§ 8-207 FAILURE TO COMPLY; PENALTY.

Should the person, corporation, partnership, or association fail to comply with the notice to abate the nuisance or request a hearing, the public officer may file a complaint in the municipal court of the city against such person, corporation, partnership, or association and, upon conviction of any violation of provisions of § 8-201, be fined a minimum of \$150 up to a maximum of \$500 or be imprisoned not to exceed 30 days or be both fined and imprisoned. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense.

(1993 Code, § 8-107) (Ord. 636, passed 6-10-2013)

§ 8-208 ABATEMENT.

(a) In addition to, or as an alternative to prosecution as provided in § 8-207, the public officer may seek to remedy violations of this article in the following manner.

(b) If a person to whom an order has been served pursuant to § 8-205 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in § 8-206, the public officer may present a resolution to the governing body for adoption authorizing the public officer or other agents of the city to abate the conditions causing the violation at the end of ten days after passage of the resolution. The resolution shall further provide that the costs incurred by the city shall be charged against the lot or parcel of ground on which the nuisance was located as provided in § 8-210.

(c) A copy of the resolution shall be served upon the person in violation in one of the following ways:

(1) Personal service upon the person in violation;

(2) Certified mail, return receipt requested; or

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

(d) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding 24-month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication, or first class mail. If the property is unoccupied and the owner is a non-resident, notice provided by this section shall be given by telephone communication or first class mail.

(1993 Code, § 8-108)

§ 8-209 HEARING.

If a hearing is requested within the ten-day period as provided in § 8-206, such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the public officer. The hearing shall be held by the governing body or its designated representative as soon as possible after the filing of the request therefore, and the person shall be advised by the city of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body or its designated representative. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the findings of the governing body or its

designated representative shall be prepared in resolution form, adopted by the governing body, and the resolution shall be served upon the person in the manner provided in § 8-208.

(1993 Code, § 8-109)

§ 8-210 COSTS ASSESSED.

If the city abates or removes the nuisance pursuant to § 8-208, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following receipt of the notice. The city also may recover the cost of providing notice, including any postage, required by this section. The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the City Clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the County Clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the County Treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115 and amendments thereto, but only until the full cost and applicable interest has been paid in full.

(K.S.A. 121617e) (1993 Code, § 8-110)

ARTICLE 2A: ENVIRONMENTAL CODE

Section

- 8-2A01 Title
- 8-2A02 Legislative finding of fact
- 8-2A03 Purpose
- 8-2A04 Rules of construction
- 8-2A05 Definitions
- 8-2A06 Public officer
- 8-2A07 Enforcement standards
- 8-2A08 Unlawful acts
- 8-2A09 Order of violation
- 8-2A10 Penalty
- 8-2A11 Abatement
- 8-2A12 Hearing
- 8-2A13 Appeals
- 8-2A14 Costs assessed
- 8-2A15 Construction

§ 8-2A01 TITLE.

This article shall be known as the “Environmental Code”.
(1993 Code, § 8-201)

§ 8-2A02 LEGISLATIVE FINDING OF FACT.

The governing body has found that there exists within the city unsightly and hazardous conditions due to: dilapidation, deterioration, or disrepair of walls, siding, fences, or structure exteriors; accumulations increasing the hazards of accidents or other calamities; structural defects; uncleanliness; unsightly stored or parked material, equipment, supplies, machinery, vehicles, or parts thereof. Such conditions are inimical to the general welfare of the community in that they have a blighting influence on the adjoining properties, the neighborhood and the city, or are injurious to the health and safety of the residents of the city. The governing body desires to promote the public health, safety, and welfare by the repair, removal, abatement, and regulation of such conditions in the manner hereafter provided.
(1993 Code, § 8-202)

§ 8-2A03 PURPOSE.

The purpose of this article is to protect, preserve, upgrade, and regulate the environmental quality of industrial, commercial, and residential neighborhoods in this city, by outlawing conditions which are injurious to the health, safety, welfare, or aesthetic characteristics of the neighborhoods and to provide for the administration and enforcement thereof.

(1993 Code, § 8-203)

§ 8-2A04 RULES OF CONSTRUCTION.

For the purpose of this article, the following rules of construction shall apply.

(a) *Any part thereof.* Whenever the words premises, structure, building, or yard are used they shall be construed as though they were followed by the words “or any part thereof”.

(b) *Gender.* Words of gender shall be construed to mean neuter, feminine, or masculine, as may be applicable.

(c) *Number.* Words of number shall be construed to mean singular or plural, as may be applicable.

(d) *Tense.* Words of tense shall be construed to mean present or future, as may be applicable.

(e) *Shall.* The word shall is mandatory and not permissive.

(1993 Code, § 8-204)

§ 8-2A05 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONED MOTOR VEHICLE. Any motor vehicle that is not currently registered or tagged pursuant to K.S.A. 8-126 to 8-149 inclusive, as amended; or parked in violation of the ordinance; or incapable of moving under its own power; or in a junked or wrecked condition.

ACCESSORY STRUCTURE. A secondary structure detached from the principal structure but on the same premises, including, but not limited to, garages, sheds, barns, or outbuildings.

COMMERCIAL or INDUSTRIAL. Used or intended to be used primarily for other than residential purposes.

DILAPIDATION, DETERIORATION, or DISREPAIR. Any condition characterized by, but not limited to: holes, breaks, rot, decay, crumbling, cracking, peeling, or flaking paint, rusting, or other evidence of physical damage, neglect, lack of maintenance, excessive use, or weathering.

EXTERIOR. Those parts of a structure that are exposed to the weather or subject to contact with the elements; including, but not limited to: sidings, facings, veneers, masonry, roofs, foundations, porches, screens, shutters, windows, doors, or signs.

GARBAGE. Without limitation any accumulation of animal, fruit, or vegetable waste matter that results from the handling, preparation, cooking, serving, delivering, storage, or use of foodstuffs.

PERSON. Any individual, individuals, corporation, partnership, unincorporated association, other business organization, committee, board, trustee, receiver, agent, or other representative who has charge, care, control, or responsibility for maintenance of any premises, regardless of status as owner, renter, tenant, or lessee, whether or not in possession.

PREMISES. Any lot, plot, or parcel of land including the structures thereon. **PREMISES** shall also mean any lot, plot, or parcel of land without any structures thereon.

REFUSE. Garbage and trash.

RESIDENTIAL. Used or intended to be used primarily for human habitation.

STRUCTURE. Anything constructed or erected which requires location on the ground or is attached to something having a location on the ground including any appurtenances belonging thereto.

TRASH. Combustible waste consisting of, but not limited to: papers, cartons, boxes, barrels, wood, excelsior, furniture, bedding, rags, leaves, yard trimmings, or tree branches and non-combustible waste consisting of, but not limited to: metal, tin, cans, glass, crockery, plastics, mineral matter, ashes, clinkers, or street rubbish and sweepings.

WEATHERED. Deterioration caused by exposure to the elements.

YARD. The area of the premises not occupied by any structure.
(1993 Code, § 8-205)

§ 8-2A06 PUBLIC OFFICER.

The Mayor may assume the responsibilities of or appoint some qualified individual to be and perform the duties of Public Officer as may be required, subject to the consent and approval of the governing body. The Public Officer shall be charged with the administration and enforcement of this article.
(1993 Code, § 8-206)

§ 8-2A07 ENFORCEMENT STANDARDS.

No person shall be found in violation of this article unless the public officer, after a reasonable inquiry and inspection of the premises, believes that conditions exist of a quality and appearance not commensurate with the character of the neighborhood. Such belief must be supported by evidence of a

level of maintenance significantly below that of the rest of the neighborhood. Such evidence shall include conditions declared unlawful under § 8-2A08, but shall not include conditions that are not readily visible from any public place or from any surrounding private property.

(1993 Code, § 8-207)

§ 8-2A08 UNLAWFUL ACTS.

(a) It shall be unlawful for any person to allow to exist on any residential, commercial, or industrial premises, conditions that are injurious to the health, safety, or general welfare of the residents of the community or conditions that are detrimental to adjoining property, the neighborhood, or the city.

(B) For the purpose of fair and efficient enforcement and administration, such unlawful conditions shall be classified as follows:

(1) Exterior conditions (yard) shall include, but not be limited to, the scattering over or the parking, leaving, depositing, or accumulation on the yard of any of the following:

(A) Lumber, wire, metal, tires, concrete, masonry products, plastic products, supplies, equipment, machinery, auto parts, junk, or refuse;

(B) Abandoned motor vehicles;

(C) Furniture, stoves, refrigerators, televisions, sinks, bicycles, lawn mowers, or other such items of personal property; or

(D) Nauseous substances, carcasses of dead animals, or places where animals are kept in an offensive manner.

(2) Exterior conditions (structure) shall include, but not be limited to, deteriorated, dilapidated, or unsightly:

(A) Exteriors of any structure;

(B) Exteriors of any accessory structure; or

(C) Fences, walls, or retaining walls.

(1993 Code, § 8-208)

§ 8-2A09 ORDER OF VIOLATION.

(a) The governing body shall serve upon the owner, any agent of the owner of the property or any other person, corporation, partnership or association found by the public officer to be in violation of § 8-2A08 an order stating the violation. The order shall be served on the owner or agent of such property by certified mail, return receipt requested, or by personal service. If the property is unoccupied and the

owner is a nonresident, then by mailing the order by certified mail, return receipt requested, to the last known address of the owner.

(b) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding 24-month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail. The order shall state:

(1) The condition that has caused the violation of this article; and

(2) That the person in violation shall have:

(A) Ten days from the receipt of the order to alleviate the exterior conditions (yard) violation; and/or

(B) Forty-five days from the receipt of the order to alleviate the exterior conditions (structure) violation; or

(C) Ten days from the receipt of the order, plus any additional time granted under subsection (c) of this section, to request, as provided in § 8-2A12 a hearing before the governing body or its designated representative on the matter.

(c) Provided, however, that the governing body (or its designee named herein) shall grant one or more extensions to the time periods stated in subsections (b)(2)(A) and (b)(2)(B) above, if the owner or agent of the property demonstrates that due diligence is being exercised in the abatement of the conditions that have caused the violation of this article; and

(d) That failure to alleviate the condition or to request a hearing may result in prosecution under § 8-2A10 and/or abatement of the condition by the city according to § 8-2A11 with the costs assessed against the property under § 8-2A14.

(K.S.A. 12-1617e) (1993 Code, § 8-209)

§ 8-2A10 PENALTY.

The public officer may file a complaint in the Municipal Court against any person found to be in violation of § 8-2A08, provided however, that such person shall first have been sent an order of violation as provided in § 8-2A09 and that the person has neither alleviated the conditions causing the alleged

violation nor requested a hearing before the governing body within the time periods specified in § 8-2A09. Upon such complaint in the Municipal Court, any person found to be in violation of § 8-2A08 shall upon conviction be punished by a fine of not less than \$150, nor more than \$500, or by imprisonment for not more than 30 days, or by both such fine and imprisonment, for each offense. For the purposes of this article, a separate offense shall be deemed committed on each day during or on which such violation is permitted to exist.

(1993 Code, § 8-210) (Ord. 637, passed 6-10-2013)

§ 8-2A11 ABATEMENT.

(a) In addition to, or as an alternative to prosecution as provided in § 8-2A10, the public officer may seek to remedy violations of this article in the following manner. If a person to whom an order has been served pursuant to § 8-2A09 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in § 8-2A09, the public officer may present a resolution to the governing body for adoption authorizing the public officer or other agents of the city to abate the conditions causing the violation at the end of ten days after passage of the resolution. The resolution shall further provide that the costs incurred by the city shall be charged against the lot or parcel of ground on which the nuisance was located as provided in § 8-2A14.

(b) A copy of the resolution shall be served upon the person in violation in one of the following ways:

(1) Personal service upon the person in violation;

(2) Certified mail, return receipt requested; or

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

(c) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding 24-month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication, or first class mail. If the property is unoccupied and the owner is a non-resident, notice provided by this section shall be given by telephone communication or first class mail.

(1993 Code, § 8-211)

§ 8-2A12 HEARING.

If a hearing is requested within the ten-day period as provided in § 8-2A09, such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the public officer. The hearing shall be held by the governing body or its designated representative as soon as possible after the filing of the request therefor, and the person shall be advised by the city of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body or its designated representative. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the findings of the governing body or its designated representative shall be prepared in resolution form, adopted by the governing body, and the resolution shall be served upon the person in the manner provided in § 8-2A11.

(1993 Code, § 8-212)

§ 8-2A13 APPEALS.

Any person affected by any determination of the governing body under §§ 8-2A11 and 8-2A12 may appeal such determination in the manner provided by K.S.A. 60-2101.

(1993 Code, § 8-213)

§ 8-2A14 COSTS ASSESSED.

If the city abates or removes the nuisance pursuant to § 8-2A11, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following receipt of the notice. The city also may recover the cost of providing notice, including any postage, required by this section. The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the City Clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the County Clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the County Treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and applicable interest has been paid in full.

(1993 Code, § 8-214)

§ 8-2A15 CONSTRUCTION.

Nothing in this article shall be construed to abrogate or impair the powers of the courts or of any department of the city to enforce any provisions of its laws, nor to prevent or punish violations thereof.

The powers conferred by this article shall be in addition to and supplemental to the powers conferred by the State Constitution, by any other law or by ordinance.
(1993 Code, § 8-215)

ARTICLE 3: JUNKED MOTOR VEHICLES ON PRIVATE PROPERTY

Section

- 8-301 Findings of governing body
- 8-302 Definitions
- 8-303 Nuisances unlawful; defined; exceptions
- 8-304 Public officer
- 8-305 Complaints; inquiry and inspection
- 8-306 Right of entry
- 8-307 Order of violation
- 8-308 Same; contents
- 8-309 Failure to comply; penalty
- 8-310 Abatement
- 8-311 Disposition of vehicle; recovery of vehicle
- 8-312 Hearing
- 8-313 Costs assessed

§ 8-301 FINDINGS OF GOVERNING BODY.

The governing body finds that junked, wrecked, dismantled, inoperative or abandoned vehicles affect the health, safety and general welfare of citizens of the city because they:

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

(1993 Code, § 8-301) (Ord. 213, passed - -)

§ 8-302 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

INOPERABLE. A condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned, or unable to perform the function or purpose for which it was originally constructed.

VEHICLE. Without limitation, any automobile, truck, tractor, or motorcycle which as originally built contained an engine, regardless of whether it contains an engine at any other time.
(1993 Code, § 8-302)

§ 8-303 NUISANCES UNLAWFUL; DEFINED; EXCEPTIONS.

It shall be unlawful for any person to maintain or permit any motor vehicle nuisance within the city.

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

(1) Absence of a current registration plate upon the vehicle;

(2) Placement of the vehicle or parts thereof upon jacks, blocks, or other supports; or

(3) Absence of one or more parts of the vehicle necessary for the lawful operation of the vehicle upon street or highway.

(b) The provisions of this section shall not apply to:

(1) Any motor vehicle which is enclosed in a garage or other building;

(2) To the parking or storage of a vehicle inoperable for a period of 30 consecutive days or less; or

(3) To any person conducting a business enterprise in compliance with existing zoning regulations or who places such vehicles behind screening of sufficient size, strength, and density to screen such vehicles from the view of the public and to prohibit ready access to stored vehicles by children. However, nothing in this division (b) shall be construed to authorize the maintenance of a public nuisance.

(1993 Code, § 8-303)

§ 8-304 PUBLIC OFFICER.

The Mayor may assume the responsibilities of or appoint some qualified individual to be and perform the duties of Public Officer as may be required, subject to the consent and approval of the governing body. The Public Officer shall be charged with the administration and enforcement of this article.

(1993 Code, § 8-304)

§ 8-305 COMPLAINTS; INQUIRY AND INSPECTION.

The public officer shall make inquiry and inspection of premises upon receiving a complaint or complaints in writing signed by two or more persons stating that a nuisance exists and describing the same and where located or is informed that a nuisance may exist by the Board of Health, Chief of Police, or the Fire Chief. The public officer may make such inquiry and inspection when he or she observes conditions that appear to constitute a nuisance. Upon making any inquiry and inspection, the public officer shall make a written report of findings.

(1993 Code, § 8-305)

§ 8-306 RIGHT OF ENTRY.

The public officer has the right of access and entry upon private property at any reasonable time for the purpose of making inquiry and inspection to determine if a nuisance exists.

(1993 Code, § 8-306)

§ 8-307 ORDER OF VIOLATION.

(a) Any person found by the public officer to be in violation of § 8-303 shall be served a notice of such violation. The notice shall be served by restricted mail, postage prepaid, return receipt requested; provided that, if the owner or his or her agent in charge of the property is a resident of the county, the notice shall be personally served by the public officer or a law enforcement officer.

(b) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding 24-month period, the governing body of the city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order of such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication, or first class mail. If the property is unoccupied and the owner is a non-resident, notice provided by this section shall be given by telephone communication or first class mail.

(K.S.A. 12-1617e) (1993 Code, § 8-307) (Ord. 213, passed - -)

§ 8-308 SAME; CONTENTS.

(a) The notice shall state the condition(s) which is (are) in violation of § 8-303.

(b) The notice shall also inform the person that:

(1) He, she, or they shall have ten days from the date of serving the notice to abate the condition(s) in violation of § 8-303; or

(2) He, she, or they have ten days from the date of serving the notice to request a hearing before the governing body of the matter as provided by § 8-312.

(c) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by § 8-309 and/or abatement of the condition(s) by the city as provided by § 8-310.

(1993 Code, § 8-308) (Ord. 213, passed - -)

§ 8-309 FAILURE TO COMPLY; PENALTY.

Should the person fail to comply with the order to abate the nuisance or request a hearing, the public officer may file a complaint in the Municipal Court of the city against such person and upon conviction of any violation of provisions of § 8-303, be fined a minimum of \$150 up to a maximum of \$500 or be imprisoned not to exceed 30 days or be both fined and imprisoned. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense.

(1993 Code, § 8-309) (Ord. 213, passed - -; Ord. 638, passed 6-10-2013)

§ 8-310 ABATEMENT.

(a) In addition to, or as an alternative to prosecution as provided in § 8-309, the public officer may seek to remedy violations of this article in the following manner. If a person to whom a notice has been sent pursuant to § 8-307 has neither alleviated the conditions causing the alleged violation or requested a hearing before the governing body within the time period specified in § 8-308, the public officer may present a resolution to the governing body for adoption authorizing the public officer or other agents of the city to abate the conditions causing the violation at the end of ten days after passage of the resolution.

(b) The resolution shall further provide that the costs incurred by the city shall be charged against the lot or parcel of ground on which the nuisance was located as provided in § 8-313. A copy of the resolution shall be served upon the person in violation in one of the following ways:

(1) Personal service upon the person in violation;

(2) Service by restricted mail, postage prepaid, return receipt requested; or

(3) In the event the whereabouts of such person are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the public officer and filed with the City Clerk and the serving of the resolution shall be made by publishing the same once

each week for two consecutive weeks in the official city newspaper and by posting a copy of the resolution on the premiss where such condition exists.

(1993 Code, § 8-310) (Ord. 213, passed - -)

§ 8-311 DISPOSITION OF VEHICLE; RECOVERY OF VEHICLE.

(a) Disposition of any motor vehicle removed and abated from private property pursuant to this article shall be as provided by K.S.A. 8-1102, as amended.

(b) Any person attempting to recover a motor vehicle impounded as provided in this article shall show proof of valid registration and ownership of the motor vehicle before the motor vehicle shall be released. In addition, the person desiring the release of the motor vehicle shall pay all reasonable costs associated with the impoundment of the motor vehicle, including transportation and storage fees, prior to the release of the motor vehicle.

(1993 Code, § 8-311)

§ 8-312 HEARING.

If a hearing is requested within the ten-day period as provided in § 8-308, such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the public officer. The hearing shall be held by the governing body or its designated representative as soon as possible after the filing of the request therefore, and the person shall be advised by the city of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body or its designated representative. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the findings of the governing body or its designated representative shall be prepared in resolution form, adopted by the governing body, and the resolution shall be served upon the person in the matter provided in § 8-310.

(1993 Code, § 8-312)

§ 8-313 COSTS ASSESSED.

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

(1993 Code, § 8-313) (Ord. 213, passed - -)

ARTICLE 4: WEEDS

Section

- 8-401 Weeds to be removed
- 8-402 Definition
- 8-403 Public officer; notice to remove
- 8-404 Abatement; assessment of costs
- 8-405 Right of entry
- 8-406 Unlawful interference
- 8-407 Noxious weeds

§ 8-401 WEEDS TO BE REMOVED.

It shall be unlawful for any owner, agent, lessee, tenant, or other person occupying or having charge or control of any premises to permit weeds to remain upon said premises or any area between the property lines of said premises and the centerline of any adjacent street or alley, including, but not specifically limited to, sidewalks, streets, alleys, easements, rights-of-way, and all other areas, public or private. All weeds as hereinafter defined are hereby declared a nuisance and are subject to abatement as hereinafter provided.

(1993 Code, § 8-401)

§ 8-402 DEFINITION.

For the purpose of this article, the following definition shall apply unless the context clearly indicates or requires a different meaning.

WEEDS. As used herein, means any of the following:

- (1) Brush and woody vines shall be classified as weeds;
- (2) Weeds and grasses that may attain such large growth as to become, when dry, a fire menace to adjacent improved property;
- (3) Weeds that bear or may bear seeds of a downy or wingy nature;
- (4) Weeds that are located in an area that harbors rats, insects, animals, reptiles, or any other creature that either may or does constitute a menace to health, public safety, or welfare; and

(5) Weeds and grasses on or about residential property that, because of its height, has a blighting influence on the neighborhood. Any such weeds and indigenous grasses shall be presumed to be blighting if they exceed 12 inches in height.

(1993 Code, § 8-402)

§ 8-403 PUBLIC OFFICER; NOTICE TO REMOVE.

(a) The city shall designate a public officer to be charged with the administration and enforcement of this article. The public officer or authorized assistant shall give written notice to the owner, occupant, or agent of such property by certified mail, return receipt requested, or by personal service to cut or destroy weeds; provided, however, that if the property is unoccupied and the owner is a non-resident, such notice shall be sent by certified, return receipt requested, to the last known address of the owner. Such notice shall be given only once per calendar year.

(b) The notice to be given hereunder shall state:

(1) That the owner, occupant, or agent in charge of the property is in violation of the city weed control law;

(2) That the owner, occupant, or agent in control of the property is ordered to cut or destroy the weeds within ten days of the receipt of the notice;

(3) That the owner, occupant, or agent in control of the property may request a hearing before the governing body or its designated representative within five days of the receipt of the notice or, if the owner is unknown or a non-resident, and there is no resident agent, ten days after notice has been published by the City Clerk in the official city newspaper;

(4) That if the owner, occupant, or agent in control of the property does not cut or destroy the weeds or fails to request a hearing within the allowed time the city or its authorized agent will cut or destroy the weeds and assess the cost of the cutting or destroying the weeds, including a reasonable administrative fee, against the owner, occupant, or agent in charge of the property;

(5) That the owner, occupant, or agent in control of the property will be given an opportunity to pay the assessment and, if it is not paid within 30 days of such notice, it will be added to the property tax as a special assessment;

(6) That no further notice will be given during the current calendar year prior to the removal of weeds from the property; and

(7) That the public officer should be contacted if there are questions regarding the order.

(c) If there is a change in the record owner of title to property subsequent to the giving of notice pursuant to this division (c), the city may not recover any costs or levy an assessment for the costs

incurred by the cutting or destruction of weeds on such property unless the new record owner of title to such property is provided notice as required by this article.

(K.S.A. 12-1617f) (1993 Code, § 8-403)

§ 8-404 ABATEMENT; ASSESSMENT OF COSTS.

(a) If the owner, occupant, or agent in charge of the property has neither alleviated the conditions causing the alleged violation nor requested a hearing within the time periods specified in § 8-403, the public officer or an authorized assistant shall abate or remove the conditions causing the violation.

(b) If the city abates or removes the nuisance pursuant to this section, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following receipt of the notice. The city also may recover the cost of providing notice, including any postage, required by this section.

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

(d) The cost of abatement of weeds, whether by cutting, destruction, removal, or otherwise, shall be \$150 per hour with a minimum of one hour being charged for any abatement.

(K.S.A. 12-1617f) (1993 Code, § 8-404) (Ord. 639, passed 6-10-2013)

§ 8-405 RIGHT OF ENTRY.

The public officer and the public officer's authorized assistants, employees, contracting agents, or other representatives are hereby expressly authorized to enter upon private property at all reasonable hours for the purpose of cutting, destroying, and/or removing such weeds in a manner not inconsistent with this article.

(1993 Code, § 8-405)

§ 8-406 UNLAWFUL INTERFERENCE.

It shall be unlawful for any person to interfere with or to attempt to prevent the public officer or the public officer's authorized representative from entering upon any such lot or piece of ground or from proceeding with such cutting and destruction. Such interference shall constitute a code violation.

(1993 Code, § 8-406)

§ 8-407 NOXIOUS WEEDS.

(a) Nothing in this article shall affect or impair the rights of the city under the provisions of K.S.A. Chapter 2, Article 13, relating to the control and eradication of certain noxious weeds.

(b) For the purpose of this article, the term noxious weeds shall mean kudzu (*Pueraria lobata*), field bindweed (*Convolvulus arvensis*), Russian knapweed (*Centaurea repens*), hoary cress (*Cardaria draba*), Canada thistle (*Cirsium arvense*), quackgrass (*Agropyron repens*), leafy spurge (*Euphorbia esula*), bur ragweed (*Ambrosia grayii*), pignut (*Hoffmannseggia densiflora*), musk (nodding) thistle (*Carduus nutans* L.), Johnson grass (*Sorghum halepense*), and sericea lespedeza (*Lespedeza cuneata*).
(K.S.A. 2-1314) (1993 Code, § 8-407)

ARTICLE 5: MINIMUM HOUSING CODE

Section

- 8-501 Title
- 8-502 General
- 8-503 Declaration of policy
- 8-504 Definitions
- 8-505 Duty of occupant or owner of occupied or unoccupied building and its premises or vacant premises
- 8-506 Regulations for the use and occupancy of dwellings
- 8-507 Maintenance and repair; dwellings
- 8-508 Designation of unfit dwellings
- 8-509 Designation of blighted premises (residential and non-residential)
- 8-510 Designation of blighted buildings and premises (non-residential)
- 8-511 Inspection of buildings and structures, and premises
- 8-512 Notice of violations; procedures
- 8-513 Public officer: authority
- 8-514 Governing body; authority
- 8-515 Order to correct and/or repair, remove, or demolish
- 8-516 Demolition by public officer; procedure and costs
- 8-517 Conflict of laws; effect or partial invalidity
- 8-518 Governing body; appeals
- 8-519 Right of petition

§ 8-501 TITLE.

This article shall be known as the “Minimum Standard for Housing and Premises Code”, and will be referred to herein as “this code”.

(1993 Code, § 8-501)

§ 8-502 GENERAL.

Buildings used in whole or in part as a home or residence of a single family or person and every building used in whole or in part as a home or residence of two or more persons or families living in separate apartments and all premises, either residential or non-residential, shall conform to the requirements of this code.

(1993 Code, § 8-502)

§ 8-503 DECLARATION OF POLICY.

The governing body declares the purpose of this code is to protect, preserve, and promote the physical and mental health of the people; investigate and control communicable diseases; regulate privately- and publicly-owned structures or dwellings and all premises for the purpose of sanitation, public health, and general appearance; protect the safety of the people; and promote the general welfare by legislation that shall be applicable to all dwellings, structures, and premises now in existence or hereafter constructed or developed and which legislation:

- (a) Establishes minimum standards for basic equipment and facilities for light, ventilation, and heating, for safety from fire, for the use and location and amount of space for human occupancy, and for safe and sanitary maintenance;
 - (b) Establishes standards concerning unsightly and blighted buildings and premises, both residential and non-residential structures;
 - (c) Determines the responsibilities of owners, operators, and occupants; and
 - (d) Provides for the administration and enforcement thereof.
- (1993 Code, § 8-503)

§ 8-504 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning. The following definitions shall apply to the enforcement of this code.

BASEMENT. A portion of a building located partly underground, but having less than half its clear floor-to-ceiling height below the average grade of the adjoining ground.

CELLAR. A portion of a building located partly or wholly underground, and having half or more than half of its clear floor-to-ceiling height below the average grade of the adjoining ground.

DWELLING. Any building that is wholly or partly used or intended to be used for living or sleeping by human occupants: provided that, temporary housing hereinafter defined shall not be regarded as a dwelling.

DWELLING UNIT. Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities that are used, or intended to be used for living, sleeping, cooking, and eating.

HABITABLE DWELLING. Any structure or part thereof that shall be used as a home or place of abode by one or more persons.

HABITABLE ROOM. A room designed to be used for living, sleeping, eating, or cooking purposes, excluding bathrooms, toilet rooms, closets, halls, and storage places, or other similar places, not used by persons for extended periods.

INFESTATION. The presence, within or around a dwelling, of insects, rodents, or other pests.

MULTIPLE DWELLING. Any dwelling containing more than two dwelling units.

OCCUPANT. Any person, over one year of age, living, sleeping, cooking, or eating in, or having actual possession of, a dwelling unit or rooming unit.

OPERATOR. Any person who has charge, care, owns, or has control of a premises or of a building or structure or part thereof, in which dwelling units or rooming units are let.

OWNER. Any person, firm, or corporation, who jointly or severally along with others, shall be in actual possession of, or have charge, care, and control of any structure or dwelling unit or premises within the city as owner, employee, or agent of the owner, or as trustee or guardian of the estate or person of the title holder, and such person shall be deemed and taken to be the **OWNER** of such property within the true intent and meaning of this code and shall be bound to comply with the provisions of this article to the same extent as the record owner and notice to any such person shall be deemed and taken to be a good and sufficient notice as if such person or persons were actually the record owner or owner of such property.

PERSON. Includes any individual, firm, corporation, association, or partnership.

PLUMBING. Includes all of the following supplied facilities and equipment: gas or fuel pipes, gas or fuel burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes-washing machines, catch basins, drains, vents, and any other similar supplied fixtures, together with all connections to water, sewer, gas, or fuel lines.

PREMISES. Any lot or land area, either residential or non-residential, not covered by a structure and which is subject to a city tax in part or in whole.

PUBLIC OFFICER. The person designated by the city.

ROOMING HOUSE. Any dwelling, or that part of a dwelling containing one or more rooming units in which space is let by the owner or operator to three or more persons who are not husband and wife, son or daughter, mother or father, or sister or brother of the owner or operator.

ROOMING UNIT. Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

REFUSE. For the purpose of this article, **REFUSE** shall include garbage and trash.

(1) **GARBAGE.** Any accumulation of animal, fruit, or vegetable waste matter that attends the preparation of, use of, cooking of, delivering of, or storage of meats, fish, fowl, fruit, or vegetable.

(2) **TRASH (COMBUSTIBLE).** For the purpose of this article, **COMBUSTIBLE TRASH** shall mean waste consisting of papers, cartons, boxes, barrels, wood and excelsior, tree branches, yard trimmings, wood furniture, bedding and leaves, or any other combustible materials.

(3) **TRASH (NON-COMBUSTIBLE).** For the purpose of this article, **NON-COMBUSTIBLE TRASH** shall mean waste consisting of metals, tin cans, glass, crockery, other mineral refuse and ashes and street rubbish and sweepings, dirt, sand, concrete scrap, or any other non-combustible material.

STRUCTURE. Anything constructed or erected on the ground or attached to something having a location on the ground.

SUPPLIED. Paid for, furnished, or provided by or under the control of, the owner or operator.

TEMPORARY HOUSING. Any tent, trailer, or other structure used for human shelter that is designed to be transportable and that is not attached to the ground, house, or building or another structure, or to any utilities system on the same premises for more than 30 consecutive days, except when located in a mobile home court duly licensed under laws of the city.

WORDS, MEANINGS. Whenever the words “dwelling”, “dwelling unit”, “rooming house”, “rooming unit”, and “premises” are used in this article, they shall be construed as though they were followed by the words “or any part thereof”.

(1993 Code, § 8-504)

§ 8-505 DUTY OF OCCUPANT OR OWNER OF OCCUPIED OR UNOCCUPIED BUILDING AND ITS PREMISES OR VACANT PREMISES.

(a) It shall be the duty of the owner of every occupied or unoccupied dwelling, building, and premises, or vacant premises, including all yards, lawns, and courts to keep such property clean and free from any accumulation of filth, rubbish, garbage, or any similar matter as covered by §§ 8-508 and 8-509.

(b) It shall be the duty of each occupant of a dwelling unit to keep in clean condition the portion of the property that he or she occupies and of which he or she has exclusive control, to comply with the rules and regulations and to place all garbage and refuse in proper containers. Where care of the premises is not the responsibility of the occupant, then the owner is responsible for violations of this code applicable to the premises.

(c) If receptacles are not provided by the owner, then the occupant shall provide receptacles as may be necessary to contain all garbage and trash.

(d) Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his or her dwelling unit is the unit primarily infested.

(e) Notwithstanding, the foregoing provisions of this section, whenever infestation is caused by failure of the owner to maintain a dwelling in a vermin proof or reasonable insect-proof condition, extermination shall be the responsibility of the owner and operator.

(f) Whenever infestation exists in two or more of the dwelling units in any dwelling, or in the shared or public parts of any dwelling containing two or more dwelling units, extermination thereof shall be the responsibility of the owner.

(1993 Code, § 8-505)

§ 8-506 REGULATIONS FOR THE USE AND OCCUPANCY OF DWELLINGS.

No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit for the purpose of living, sleeping, cooking, or eating therein, that does not comply with the following requirements. The following requirements are hereby declared essential to the health and safety of the occupants of such dwelling or dwelling unit.

(a) *Attached garages or non-dwelling areas.* All non-dwelling occupancies shall be separated from the dwelling unit by a fire resistant wall and if the dwelling and garage are covered by a common or connecting roof, then the ceiling also must have a fire resistance rating of not less than one hour as defined in the Building Code.

(b) *Basement or cellar.* The basement or cellar of any dwelling shall be reasonably dry and ventilated and shall be kept free from rubbish accumulation.

(c) *Basement dwelling units.* The use of basements or cellars for dwelling units is prohibited unless they comply with division (r) below governing ventilation, provided however, if occupied at the time of the passage of this code and if it complies with all other provisions of this code, the public officer may approve less than the required windows, if in his or her opinion, the window area is not detrimental to the occupants.

(d) *Bathing facilities.* Every dwelling unit shall contain within a room which affords privacy to a person in the room, a bathtub or shower in good working condition and properly connected to an approved water and sewer system.

(e) *Boarding and rooming houses.* No room shall be used for sleeping purposes unless the ceiling height is at least seven feet and there are at least 400 cubic feet of air space for each occupant over six years of age. For sleeping rooms with sloping ceilings, the ceiling height shall be at least seven feet over at least 50% of the floor area.

(1) Bathing facilities shall be provided in the form of a tub or shower for each eight occupants. Separate facilities shall be provided for each sex and plainly marked.

(2) A flush water closet shall be provided for each six occupants and shall be separated with the separate access from bathing facilities if more than four occupants are served by each. Separate facilities shall be provided for each sex and shall be plainly marked.

(f) *Drainage.* All courts, yards, or other areas on the premises of any dwelling shall be so graded and drained that there is no pooling of the water thereon. Properly constructed wading and swimming pools and fish ponds are excepted from this section.

(g) *Entrances.*

(1) There shall be for each dwelling unit a normally used separate access either to a hallway, stairway, or street that is safe and in good repair.

(2) A secondary exit to the ground shall be available in case of fire through windows, porch roofs, ladders, or any combination that is free of hazard or egress.

(h) *Floor area.* Every dwelling unit shall contain at least 150 square feet of floor space for the first occupant thereof and at least 100 additional square feet of floor space for every additional occupant thereof. The floor space shall be calculated on the basis of total habitable room area, inside measurements. No floor space shall be included in determining habitable room area over which the ceiling is less than seven feet above the floor for the purpose of this division (h).

(i) *Garbage and trash receptacles.* Every dwelling and every dwelling unit shall be provided with such receptacles, not exceeding 32-gallon capacity, as may be necessary to contain all garbage and trash and such receptacles shall at all times be maintained in good repair.

(j) *Heating.* Every dwelling and every dwelling unit shall be so constructed, insulated, and maintained and be provided by owner or occupant with heating units so that it is capable of reaching an air temperature of 70°F under ordinary winter conditions. The chimney of the dwelling or dwelling unit shall be maintained in good order and the owner of the approved heating equipment shall maintain it in good order and repair.

(k) *Kitchen sink.* In every dwelling unit containing two or more rooms, there shall be at least one kitchen sink with public water under pressure and connected to the public sewer, or if that sewer system is not available, to a sewage disposal system approved by the City Health Department.

(l) *Lavatory facilities.* Every dwelling unit shall contain within its walls a lavatory basin in good working condition and properly connected to an approved water and sewer system and located in the same room as the required flush water closet or as near to the room as practicable.

(m) *Lighting.* Every habitable room shall have a ceiling electric outlet and a duplex outlet in wall or floor, or at least two wall or floor outlets.

(n) *Lighting of toilets and bathrooms.* Every toilet and every bathroom in every dwelling shall have at least one electric light in either the ceiling or on the wall.

(o) *Plumbing.* All plumbing, water closets, and other plumbing fixtures in every dwelling or dwelling unit shall be maintained in good working order.

(p) *Privies.* All pit privies, privy vaults, “dry hopper” sewer-connected privies and frost-proof closets are hereby declared to be a public nuisance.

(q) *Toilet facilities.* There shall be at least one flush water closet in good working condition for each dwelling unit, which flush water closet shall be located within the dwelling and in a room that affords privacy.

(r) *Ventilation.* Every habitable room in a dwelling or dwelling unit shall contain a window or windows openable directly to the outside air and the total area of such window or windows shall be not less than 5% of the floor area of such room. An approved system of mechanical ventilation or air conditioning may be used in lieu of openable windows. Such system shall be capable of providing not less than four air changes per hour, except that in toilet compartments such system shall provide a complete air change every five minutes and be automatically put in operation when the toilet compartment light is in the “on” position.

(s) *Water heating facilities.* Every dwelling shall have supplied water heating facilities that are installed in an approved manner and are maintained and operated in a safe and good working condition and are properly connected with the hot water lines to the kitchen sink, lavatory, and bathtub or shower.

(t) *Windows and doors.* Every window and exterior door shall be reasonably weather-tight, lockable, and rodent-proof and shall be kept in good working condition and good repair.
(1993 Code, § 8-506)

§ 8-507 MAINTENANCE AND REPAIR; DWELLINGS.

Every dwelling and every part thereof shall be maintained in good repair by the owner or agent and be fit for human habitation. The roof shall be maintained so as not to leak and all rainwater shall be drained therefrom so as not to cause dampness in the walls or ceilings. All floors, stairways, doors, porches, windows, skylights, chimneys, toilets, sinks, walls, and ceilings shall be kept in good repair and usable condition.

(1993 Code, § 8-507)

§ 8-508 DESIGNATION OF UNFIT DWELLINGS.

The designation of dwellings or dwelling units as unfit for human habitation and placarding of such unfit dwellings or dwelling units shall be carried out in compliance with the following requirements.

(a) *Determination.* The public officer may determine, or five citizens may petition in writing, that any dwelling unit is unfit for human use or habitation if he, she, or they find that conditions exist in such structure that are dangerous or injurious to the health, safety, or morals of the occupants of such buildings or other residents of the neighborhood, or which shall have a blighting influence on properties in the area.

(b) *Conditions.* Such conditions may include the following without limitation:

(1) Defects therein increasing the hazards of fire, accident, or other calamities.

(2) Lack of:

(A) Adequate ventilation;

(B) Light;

(C) Cleanliness; and

(D) Sanitary facilities.

(3) Dilapidation;

(4) Disrepair;

(5) Structural defects;

(6) Overcrowding;

(7) Inadequate ingress and egress;

(8) Unsightly appearance that constitute a blight to the adjoining property, the neighborhood, or the city; and

(9) Air pollution.

(c) *Placarding; order to vacate.* Any dwelling or dwelling unit condemned as unfit for human habitation, and so designated and placarded by the public officer, shall be vacated within a reasonable time as so ordered.

(d) *Notice of violation.* Procedures as outlined in § 8-512 are applicable hereto.

(e) *Compliance required before re-occupancy.* No dwelling or dwelling unit that has been condemned and placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from, and such placard is removed by the public officer.

(1) The public officer shall remove such placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated.

(2) It shall be unlawful for anyone to let, lease, occupy, or permit the occupancy, whether for a consideration or not, of any dwelling so posted and any violation of this provision shall constitute a public offense within the meaning of this code.

(3) It shall be unlawful for any person to deface or remove the placard from any dwelling or dwelling unit that has been condemned as unfit for human habitation and placarded as such, except the public officer as herein provided, and any violation of this provision shall constitute a public offense within the meaning of this code.

(1993 Code, § 8-508)

§ 8-509 DESIGNATION OF BLIGHTED PREMISES (RESIDENTIAL AND NON-RESIDENTIAL).

The designation of unsightly and blighted premises and elimination thereof shall be carried out in compliance with the following requirements.

(a) *Public officer determinations.* The public officer may determine, or five citizens may petition in writing, that if the appearance of a premises is not commensurate with the character of the properties in the neighborhood or otherwise constitutes a blight to the adjoining property or the neighborhood or the city for such reasons as, but not limited to:

(1) Dead trees or other unsightly natural growth;

(2) Unsightly stored or parked material, equipment, supplies, machinery, trucks, or automobiles or parts thereof; vermin infestation, inadequate drainage; and

(3) Violation of any other law or regulations relating to the use of land and the use and occupancy of the buildings and improvements.

(b) *Notice of violation.* Procedures as outlined in § 8-512 are applicable hereto.
(1993 Code, § 8-509)

§ 8-510 DESIGNATION OF BLIGHTED BUILDINGS AND PREMISES (NON-RESIDENTIAL).

(a) *Certain blighted conditions.* Certain blighted conditions covered in §§ 8-508 and 8-509 concerning buildings and premises that are on the tax roll of the city are applicable to all non-residential buildings and premises.

(b) *Notice of violation.* Procedures of notification shall follow those prescribed in § 8-512.
(1993 Code, § 8-510)

§ 8-511 INSPECTION OF BUILDINGS AND STRUCTURES, AND PREMISES.

(a) For the purpose of determining compliance with the provisions of this code, the public officer or his or her authorized representative is hereby authorized to make inspections to determine the condition, use, and occupancy of dwellings, dwelling units, rooming units, and the premises upon which the same are located. This requirement is applicable to existing dwellings or buildings.

(b) The public officer is not limited by the conditions in division (a) above where new construction or vacant premises are involved and may make such inspections at any appropriate time.

(c) The owner, operator, and occupant of every dwelling, dwelling unit, and rooming unit shall give the public officer, or his or her authorized representative, during reasonable hours, free access to such dwelling, dwelling unit, and rooming unit, and its premises, for the purpose of such inspection, examination, and survey after identification by proper credentials.

(d) Every occupant of a dwelling shall give the owner thereof, or his or her authorized agent or employee, access to any part of such dwelling, or its premises, at all reasonable times, for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this code or with any rule or regulation adopted and promulgated, or any order issued pursuant to the provisions of this code.

(1993 Code, § 8-511)

§ 8-512 NOTICE OF VIOLATIONS; PROCEDURES.

(a) *Informal discussion.* Whenever the public officer or his or her authorized representative determines that there has been a violation of any provision of this code, the public officer will arrange with the alleged violator for an informal discussion of violations, and whether repair and correction is justified.

(b) *Formal hearing.* If a satisfactory solution to the violations either by correction, demolition, or removal is not forthcoming, then a legal notice of a formal hearing will be issued according to the following procedures:

(1) Shall be in writing;

(2) Shall list the violations alleged to exist or to have been committed;

(3) Shall provide a reasonable time, but not less than 30 days in any event for the correction of the violations particularized;

(4) Shall be addressed to and served upon the owner of the property, the operator of the dwelling, and the occupant of the dwelling unit or the rooming unit concerned, if the occupant is or may be responsible for violation;

(5) If one or more persons whom the notice is addressed cannot be found or served after diligent effort to do so, service may be made upon such person or persons by posting a notice in a conspicuous place in or about the dwelling affected by the notice, in which event the public officer or his or her authorized representative shall include in the record a statement as to why such posting was necessary; and

(6) Delivery shall be by certified mail, return receipt requested, or by personal service. If service is made by certified mail, the public officer or his or her authorized representative shall include in the record a verified statement giving details regarding the mailing.
(1993 Code, § 8-512)

§ 8-513 PUBLIC OFFICER: AUTHORITY.

For the purpose of protecting the city against unsightly or blighted premises, also the health, welfare, and safety of the inhabitants of dwellings or dwelling units, the public officer referred heretofore is hereby authorized, with the consent and prior knowledge of the governing body, to enforce provisions of this code and of other laws that regulate or set standards affecting buildings and premises.
(1993 Code, § 8-513)

§ 8-514 GOVERNING BODY; AUTHORITY.

The governing body is hereby authorized:

(a) To informally review all alleged violations as provided in § 8-512(a) prior to notification prescribed in § 8-512(b);

(b) To take action as prescribed in § 8-512(b);

(c) To hear appeals if there is opposition to any order, requirement, decision, or determination by the public officer in enforcement of this code as outlined in § 8-518; and

(d) Discretionary authority may be exercised in specific cases where variance from the terms of the code as:

(1) Will not adversely affect the public health, safety, or welfare of inhabitants of the city;

(2) Is in harmony with the spirit of this code; and

(3) Where literal enforcement of the code will result in unnecessary hardship.

(1993 Code, § 8-514)

§ 8-515 ORDER TO CORRECT AND/OR REPAIR, REMOVE, OR DEMOLISH.

At the time of the placarding and order to vacate specified by § 8-508(c) hereof, the public officer shall also issue and cause to be served upon the owner a notice advising of the option of removal or demolition in lieu of correction and/or repair following the procedures as outlined in § 8-512. (1993 Code, § 8-515)

§ 8-516 DEMOLITION BY PUBLIC OFFICER; PROCEDURE AND COSTS.

(a) Failure to comply with the order under § 8-515 hereof for the alteration or improvement of such structure, the public officer, with the consent and prior knowledge of the governing body, may cause such condemned structure to be removed or demolished and the premises improved to eliminate the conditions outlined in § 8-509 of the code.

(b) The cost of demolition by a public officer shall be a lien upon the property upon which the cost was incurred and such lien, including as a part thereof an allowance of his or her costs and necessary attorney's fees, may be foreclosed in judicial proceedings in the manner provided or authorized by law for loans secured by liens on real property or shall be assessed as a special assessment upon the lot or parcel of land on which the structure was located and the City Clerk at the time of certifying other city taxes, shall certify the unpaid portion of the aforesaid costs and the County Clerk shall extend the same on the tax rolls against the lot or parcel of land.

(c) If the structure is removed or demolished by the public officer, he or she shall offer for bids and sell the structure or the materials of such structure. The proceeds of such sale shall be credited against the cost of the removal or demolition and, if there is any balance remaining, it shall be paid to the parties entitled thereto after deduction of costs or judicial proceedings, if any, including the necessary attorney's fees incurred therein, as determined by the court, if involved. (1993 Code, § 8-516)

§ 8-517 CONFLICT OF LAWS; EFFECT OR PARTIAL INVALIDITY.

(a) Conflicts between the provisions of this code and with a provision of any zoning, building, fire, safety, or health ordinance or code of the city, existing on the effective date of this article, the provision shall prevail that establishes the higher standard.

(b) Conflicts between this article with a provision of any other ordinance or code of the city existing on the effective date of this article that establishes a lower standard, the provisions of this article shall be deemed to prevail and such other laws or codes are hereby declared to be repealed to the extent that they may be found in conflict with this code. (1993 Code, § 8-517)

§ 8-518 GOVERNING BODY; APPEALS.

(a) Any person, firm, or corporation considering themselves aggrieved by the decision of the public officer and who desires to present a formal protest to the governing body shall in writing, request a hearing before the governing body within ten days after receiving notice of the decision from the public officer, as provided in § 8-512(b). Such protest and request for a hearing shall be filed with the office of the City Clerk.

(b) Upon receipt of a protest and request for a hearing, the City Clerk shall notify in writing the governing body of such appeal.

(c) The governing body shall, within 30 days of receipt of protest and request for a hearing, determine a date for the hearing.

(d) Notice of the date for the hearing shall be sent to the appellant at least ten days before the hearing.

(e) Except where an immediate hazard exists as described in § 4-612 of this code, the filing of a protest and request for a hearing before the governing body as specified in division (a) above shall operate as a stay of the enforcement of the public officer's order until such time as the governing body has reached a decision on the matter.

(1993 Code, § 8-518)

§ 8-519 RIGHT OF PETITION.

After exhausting the remedy provided in § 8-518, any person aggrieved by an order issued by the public officer and approved by the governing body after a hearing on the matter may, within 30 days from the date that the order became final, petition the District Court of the county in which the property is located to restrain the public officer from carrying out the provisions of the order.

(1993 Code, § 8-519)

ARTICLE 6: RODENT CONTROL

Section

- 8-601 Definitions
- 8-602 Building maintenance
- 8-603 Notice to rat-stop; when city to do work
- 8-604 Failure to comply
- 8-605 Replace rat-stoppage
- 8-606 Notice to eradicate rats
- 8-607 Conditions conducive to harborage of rats
- 8-608 Inspections

§ 8-601 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUILDING. Any structure, whether public or private, that is adapted for occupancy as a residence; the transaction of business; the rendering of professional services; amusement; the display, sale, or storage of goods, wares or merchandise; or the performance of work or labor, including office buildings, public buildings, stores, theaters, markets, restaurants, workshops, and all other houses, sheds, and other structures on the premises used for business purposes.

OCCUPANT. The person that has the use of, controls, or occupies any business building or any portion thereof, whether owner or tenant. In the case of vacant business buildings or any vacant portion of a business building, the owner, agent, or other person having custody of the building shall have the responsibilities of an ***OCCUPANT*** of a building.

OWNER. The owner of any building or structure, whether individual, firm, partnership, or corporation.

RAT HARBORAGE. Any condition that provides shelter or protection for rats, thus favoring their multiplication and continued existence in, under, or outside a structure of any kind.

RAT-STOPPAGE. A form of rat-proofing to prevent the ingress of rats into buildings from the exterior or from one building to another, consisting essentially of the closing of all openings in the

exterior walls, ground, or first floors, basements, roofs, and foundations, that may be reached by rats from the ground by climbing or by burrowing, with material or equipment impervious to rat-gnawing. (1993 Code, § 8-601)

§ 8-602 BUILDING MAINTENANCE.

All buildings and structures located within the present or future boundaries of the city shall be rat-stopped, freed of rats, and maintained in a rat-stopped and rat-free condition. (1993 Code, § 8-602)

§ 8-603 NOTICE TO RAT-STOP; WHEN CITY TO DO WORK.

Upon receipt of written notice from the governing body, the owner of any building or structure specified therein shall take immediate measures for the rat-stoppage of such building or structure. The work shall be completed in the time specified in the written notice, which shall be within 15 days, or within the time of any written extension thereof that may have been granted by the governing body. (1993 Code, § 8-603)

§ 8-604 FAILURE TO COMPLY.

If the owner fails to comply with such written notice or extension, then the governing body is authorized to take such action as may be necessary to completely rat-stop the building or structure at the expense of the owner, and the City Clerk shall submit bills for the expense thereof to the owner of the building or structure. If the bills are not paid within 60 days, the City Clerk shall certify the amount due to the City Treasurer and the charge shall be a lien against the property where the work has been done, and the owner shall be promptly billed therefor. The expense thereof shall include the cost of labor, materials, equipment, and any other actual expense necessary for rat-stoppage. (1993 Code, § 8-604)

§ 8-605 REPLACE RAT-STOPPAGE.

It shall be unlawful for any occupant, owner, contractor, public utility company, plumber, or any other person to remove the rat-stoppage from any building or structure for any purpose and fail to restore the same in a satisfactory condition or to make any new openings that are not closed or sealed against the entrance of rats. (1993 Code, § 8-605)

§ 8-606 NOTICE TO ERADICATE RATS.

Whenever the governing body notifies in writing the owner of any building or structure, theretofore rat-stopped, as hereinabove defined, that there is evidence of rat infestation of the building or structure, the owner shall immediately institute appropriate measures for freeing the premises so occupied of all

rats. Unless suitable measures for freeing the building or structure of rats are instituted within five days after the receipt of notice, and unless continually maintained in a satisfactory manner, the city is hereby authorized to free the building or structure of rats at the expense of the owner thereof and the City Clerk shall submit bills for the expense thereof to the owner of the building or structure and if the same are not paid, the City Clerk shall certify the amount due from the owner to the City Treasurer, and the owner shall be promptly billed therefor. The expense thereof shall include the cost of labor, materials, equipment, and any other actual expense necessary for the eradication measures.

(1993 Code, § 8-606)

§ 8-607 CONDITIONS CONDUCIVE TO HARBORAGE OF RATS.

(a) All food and feed kept within the city for feeding animals shall be kept and stored in rat-free and rat-proof containers, compartments, or rooms unless kept in a rat-stopped building.

(b) It shall be unlawful for any person to place, leave, dump, or permit to accumulate any garbage or trash in any building or premises so that the same shall afford food and harborage for rats.

(c) It shall be unlawful for any person to accumulate or to permit the accumulation on any premises or on any open lot any lumber, boxes, barrels, bricks, stone, or similar materials that may be permitted to remain thereon and that are rat harborages, unless the same shall be placed on open racks that are elevated not less than 12 inches above the ground, evenly piled or stacked.

(d) Whenever conditions inside or under any building or structure provide such extensive harborage for rats that the Health Department deems it necessary to eliminate such harborage, he or she may require the owner to install suitable cement floors in basements or to replace wooden first or ground floors or require the owner to correct such other interior rat harborage as may be necessary to facilitate the eradication of rats in a reasonable time and thereby to reduce the cost of such eradication.

(1993 Code, § 8-607)

§ 8-608 INSPECTIONS.

The city is empowered to make such inspections and re-inspections of the interior and exterior of any building or structure as in his or her opinion may be necessary to determine full compliance with this article.

(1993 Code, § 8-608)

ARTICLE 7: INSURANCE PROCEEDS FUND

Section

- 8-701 Scope and application
- 8-702 Lien created
- 8-703 Same; encumbrances
- 8-704 Same; pro-rata basis
- 8-705 Procedure
- 8-706 Fund created; deposit of moneys
- 8-707 Building inspector; investigation, removal of structure
- 8-708 Removal of structure; excess moneys
- 8-709 Same; disposition of funds
- 8-710 Effect upon insurance policies
- 8-711 Insurers; liability

§ 8-701 SCOPE AND APPLICATION.

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

(1993 Code, § 7-401) (Ord. 508, passed 8-25-2003)

§ 8-702 LIEN CREATED.

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

(1993 Code, § 7-402) (Ord. 508, passed 8-25-2003)

§ 8-703 SAME; ENCUMBRANCES.

Prior to final settlement on any claim covered by § 8-702, the insurer or insurers shall contact the County Treasurer, Kingman County, Kansas, to determine whether any such encumbrances are presently in existence. If the same are found to exist, the insurer or insurers shall execute and transmit in an amount equal to that owing under the encumbrances a draft payable to the County Treasurer, Kingman County, Kansas.

(1993 Code, § 7-403) (Ord. 508, passed 8-25-2003)

§ 8-704 SAME; PRO-RATA BASIS.

Such transfer of proceeds shall be on a pro rata basis by all insurance companies insuring the building or other structure.

(1993 Code, § 7-404) (Ord. 508, passed 8-25-2003)

§ 8-705 PROCEDURE.

(a) When final settlement on a covered claim has been agreed to or arrived at between the named insured or insureds and the company or companies, and the final settlement exceeds 75% of the face value of the policy covering any building or other insured structure, and when all amounts due the holder of a first real estate mortgage against the building or other structure, pursuant to the terms of the policy and endorsements thereto, shall have been paid, the insurance company or companies shall execute a draft payable to the City Treasurer in an amount equal to the sum of 15% of the covered claim payment, unless the Chief Building Inspector of the city has issued a certificate to the insurance company or companies that the insured has removed the damaged building or other structure, as well as all associated debris, or repaired, rebuilt, or otherwise made the premises safe and secure.

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

(c) Upon the transfer of the funds as required by division (a) above, the insurance company shall provide the city with the name and address of the named insured or insureds, the total insurance coverage applicable to said building or other structure, and the amount of the final settlement agreed to or arrived at between the insurance company or companies and the insured or insureds, whereupon the Chief Building Inspector shall contact the named insured or insureds by certified mail, return receipt requested, notifying them that said insurance proceeds have been received by the city and apprise them of the procedures to be followed under this article.

(1993 Code, § 7-405) (Ord. 508, passed 8-25-2003)

§ 8-706 FUND CREATED; DEPOSIT OF MONEYS.

The City Treasurer is hereby authorized and shall create a fund to be known as the Insurance Proceeds Fund. All monies received by the City Treasurer as provided for by this article shall be placed in said fund and deposited in an interest-bearing account.

(1993 Code, § 7-406) (Ord. 508, passed 8-25-2003)

§ 8-707 BUILDING INSPECTOR; INVESTIGATION. REMOVAL OF STRUCTURE.

(a) Upon receipt of monies as provided for by this article, the City Treasurer shall immediately notify the Chief Building Inspector of said receipt, and transmit all documentation received from the insurance company or companies to the Chief Building Inspector.

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

(c) Prior to the expiration of the 30 days established by division (b) of this section, the Chief Building Inspector shall notify the City Treasurer whether he or she intends to initiate proceedings under K.S.A. 12-1750 et seq., as amended.

(d) If the Chief Building Inspector has determined that proceedings under K.S.A. 12-1750 et seq., as amended shall be initiated, he or she will do so immediately but no later than 45 days after receipt of the monies by the City Treasurer.

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

(1993 Code, § 7-407) (Ord. 508, passed 8-25-2003)

§ 8-708 REMOVAL OF STRUCTURE; EXCESS MONEYS.

If the Chief Building Inspector has proceeded under the provisions of K.S.A. 12-1750 et seq., as amended, all monies in excess of that which is ultimately necessary to comply with the provisions for the removal of the building or structure, less salvage value, if any, shall be paid to the insured.

(1993 Code, § 7-408) (Ord. 508, passed 8-25-2003)

§ 8-709 SAME; DISPOSITION OF FUNDS.

If the Chief Building Inspector, with regard to a building or other structure damaged determines that it is necessary to act under K.S.A. 12-1756, any proceeds received by the City Treasurer under the authority of § 8-705(a) relating to that building or other structure shall be used to reimburse the city for any expenses incurred by the city in proceeding under K.S.A. 12-1756. Upon reimbursement from the

insurance proceeds, the Chief Building Inspector shall immediately effect the release of the lien resulting therefrom. Should the expenses incurred by the city exceed the insurance proceeds paid over to the City Treasurer under § 8-705(a), the Chief Building Inspector shall publish a new lien as authorized by K.S.A. 12-1756, in an amount equal to such excess expenses incurred.
(1993 Code, § 7-409) (Ord. 508, passed 8-25-2003)

§ 8-710 EFFECT UPON INSURANCE POLICIES.

This article shall not make the city a party to any insurance contract, nor is the insurer liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy.
(1993 Code, § 7-410) (Ord. 508, passed 8-25-2003)

§ 8-711 INSURERS; LIABILITY.

Insurers complying with this article or attempting in good faith to comply with this article shall be immune from civil and criminal liability and such action shall not be deemed in violation of K.S.A. 40-2404 and any amendments thereto, including withholding payment of any insurance proceeds pursuant to this article, or releasing or disclosing any information pursuant to this article.
(1993 Code, § 7-411) (Ord. 508, passed 8-25-2003)

CHAPTER IX: MUNICIPAL COURT

Article

1. GENERAL PROVISIONS

ARTICLE 1: GENERAL PROVISIONS

Section

- 9-101 Municipal Court established
- 9-102 Same; practice and procedure
- 9-103 Time and place of sessions
- 9-104 Municipal Judge; appointment
- 9-105 Same; absence; vacancy; pro tem
- 9-106 Same; powers and duties
- 9-107 Same; salary
- 9-108 Court Clerk
- 9-109 Payment of fine
- 9-110 Same; failure to pay separate violation
- 9-111 Failure to appear
- 9-112 Court costs

§ 9-101 MUNICIPAL COURT ESTABLISHED.

There is hereby established a Municipal Court for the city. The Municipal Court shall have jurisdiction to hear and determine cases involving violations of the ordinances of the city.
(1993 Code, § 9-101)

§ 9-102 SAME; PRACTICE AND PROCEDURE.

The Kansas Code of Procedure for Municipal Courts, as set forth in K.S.A. 12-4101 et seq., and all acts amendatory or supplemental thereto shall govern the practice and procedure in all Municipal Court cases.
(1993 Code, § 9-102)

§ 9-103 TIME AND PLACE OF SESSIONS.

Municipal Court shall be held in the municipal courtroom in the city hall building on such days and at such hours as the Municipal Judge designates.
(1993 Code, § 9-103)

§ 9-104 MUNICIPAL JUDGE; APPOINTMENT.

The Municipal Court shall be presided over by a Municipal Judge. The Mayor, subject to the approval of the City Council, shall appoint the Judge of the Municipal Court.
(1993 Code, § 9-104)

§ 9-105 SAME; ABSENCE; VACANCY; PRO TEM.

(a) In the event the Municipal Judge is temporarily unable to preside due to absence, illness, or disqualification, the Municipal Judge shall designate an attorney or other qualified person to act as Judge Pro Tempore. In the event the Municipal Judge fails to appoint a Judge Pro Tempore, the Judge Pro Tempore shall be appointed in the same manner as the Municipal Judge is selected. The Judge Pro Tempore shall receive compensation as shall be provided by ordinance, payable in the same manner as the compensation of the regular Municipal Judge.

(b) In the event a vacancy shall occur in the Office of Municipal Judge, a successor shall be appointed to fill the unexpired term in the same manner as the Municipal Judge was appointed.
(K.S.A. 12-4107) (1993 Code, § 9-105)

§ 9-106 SAME; POWERS AND DUTIES.

The Municipal Judge shall have such powers and duties as set forth in the Kansas Code of Procedure for Municipal Courts (K.S.A. 12-4101 et seq.) and all acts amendatory or supplemental thereto.
(1993 Code, § 9-106)

§ 9-107 SAME; SALARY.

The Municipal Judge shall receive a salary as shall be fixed by ordinance.
(1993 Code, § 9-107)

§ 9-108 COURT CLERK.

There is hereby established the Office of the Clerk of the Municipal Court of the city, which office shall be filled by appointment by the Municipal Judge of the Municipal Court. The duties of the office shall be those prescribed by the Code for Municipal Courts set forth in K.S.A. Chapter 12, Article 41, and shall include the following duties.

(a) The Clerk shall issue all processes of the Court, administer oaths, file and preserve all papers, docket cases, and set same for trial and shall perform such further acts as may be necessary to carry out the duties and responsibilities of the Court. The Clerk shall receive, account for, and pay to the City Treasurer monthly all fines and forfeited bonds paid into the Court. The Clerk shall make reports to the judicial administrator and furnish the information when requested by him, her, or a departmental justice on such forms furnished by the judicial administrator, and approved by the Supreme Court.

(b) The Clerk of the Municipal Court shall, within ten days after selection and before entering upon the duties of office, execute to the city such bond as the governing body may require, which shall be approved by the governing body, and file in the office of the City Clerk, conditioned for the faithful performance of the duties required of him or her by law, and for the faithful application and payment of all moneys that may come into his or her hands in the execution of the duties of the office. The city shall pay the cost of such bond.

(c) The monthly salary of the Clerk shall be fixed by ordinance.

(d) A majority of all members of the Council may remove the Clerk appointed under the authority of this article or, for good cause, the Mayor may temporarily suspend any such appointed Clerk.
(K.S.A. 12-4108) (1993 Code, § 9-108)

§ 9-109 PAYMENT OF FINE.

Where a Municipal Court judgment against any person results in a fine and/or court costs only, the same shall be satisfied by paying the amount of such fine and/or court costs to the Municipal Court immediately on the rendition of judgment, or at such time as the Municipal Judge shall determine.
(1993 Code, § 9-109)

§ 9-110 SAME; FAILURE TO PAY SEPARATE VIOLATION.

It shall be unlawful for any person to willfully fail to pay any lawfully imposed fine for a violation of any law of the city within the time authorized by the Court and without lawful excuse having been presented to the Court on or before the date the fine is due. Such conduct constitutes a violation of this article, regardless of the full payment of the fine after such time.
(1993 Code, § 9-110)

§ 9-111 FAILURE TO APPEAR.

(a) It shall be unlawful for any person charged with violation of any law of the city to fail to appear before the Municipal Court when so scheduled to appear, unless lawful excuse for absence is presented to the Court on or before the time and date scheduled for appearance.

(b) For the purpose of division (a) above, failure to appear shall include willfully incurring a forfeiture of an appearance bond and failure to surrender oneself within 30 days following the date of such forfeiture by one who is charged with a violation of the laws of the city and has been released on bond for appearance before the Municipal Court for trial or other proceeding prior to conviction, or willfully incurring a forfeiture of an appearance bond and failing to surrender oneself within 30 days after his or her conviction of a violation of the laws of the city has become final by one who has been released on an appearance bond by any court of the state.

(c) Any person who is released upon his or her own recognizance, without surety, or who fails to appear in response to a summons, notice to appear, or traffic citation duly served upon him or her personally shall be deemed a person released on bond for appearance within the meaning of division (b) above.

(d) Failure to appear, upon conviction thereof, shall be punishable by incarceration for up to 30 days and/or a fine of up to \$250.
(1993 Code, § 9-111)

§ 9-112 COURT COSTS.

The following costs shall be assessed, where applicable, against persons who are found guilty, plead guilty or fail to comply with a traffic citation as costs for the administration of justice:

(a) The sum of \$90 shall be assessed as court costs against each person charged with a violation of any ordinances of the city, unless found not guilty or imposition of court costs is otherwise prohibited by ordinances of the city. The \$90 in court costs shall include all costs required by state statute.

(b) The cost for housing, meals, and medical care while incarcerated prior to and after a conviction for a violation of the ordinances of the city shall be assessed against each person. Said cost shall be the amount actually charged by the County Sheriff and paid by the city.

(1) In determining the amount and method of payment of costs for housing, meals, and medical care, the court shall take into account the financial resources of the person and the nature of the burden that payment of such fees will impose.

(2) If a person alleges the cost of housing, meals, and medical care would create an undue hardship on the person, he or she may, by motion to the municipal court, request that such costs be waived and/or reduced. If the court, in its discretion after evaluating the evidence, determines that such fees will create an undue hardship, the court may waive or reduce said fees.

(c) Except as set forth in division (b) of this section, the assessment and imposition of court costs pursuant to this section shall be mandatory, and the court shall not waive, remit, suspend, parole, or otherwise excuse payment thereof unless required by ordinances of the city.

(d) The costs and fees assessed pursuant to this section shall be in addition to any fine imposed.
(Charter Ord. CO-16-01, passed 1-25-2016; Ord. 655, passed 4-25-2016)

CHAPTER X: POLICE

Article

- 1. POLICE DEPARTMENT**
- 2. PROPERTY IN POLICE CUSTODY**
- 3. POLICE FEES**

ARTICLE 1: POLICE DEPARTMENT

Section

- 10-101 Police Department
- 10-102 Law enforcement personnel; general duties
- 10-103 Rules and regulations

§ 10-101 POLICE DEPARTMENT.

The law enforcement department shall consist of a Chief of Police and such number of regular law enforcement officers as shall be appointed as provided by K.S.A. 15-204.
(1993 Code, § 10-101)

§ 10-102 LAW ENFORCEMENT PERSONNEL; GENERAL DUTIES.

(a) It shall be the general duty of the Chief of Police and all sworn law enforcement personnel to the best of their ability to preserve good order, peace, and quiet throughout the city as provided by law or ordinance.

(b) The Chief of Police and all sworn law enforcement personnel shall at all times have power to make arrest under proper process or without process on view of any offense against the laws of the state or laws of the city and to keep all persons so arrested, unless admitted to bail, in the city jail, county jail, or other proper place to prevent their escape until their trial can be had before the proper officer.

(c) All persons arrested for violation of any law of the state and who shall not be charged with an offense under any law of the city shall be released to the custody of the Sheriff of the county and such arrest shall be reported to the County Attorney.
(1993 Code, § 10-102)

§ 10-103 RULES AND REGULATIONS.

The Chief of Police shall have power to make such rules and regulations as may be necessary for the proper and efficient conduct of the Department. Such rules and regulations shall be approved by the governing body.
(1993 Code, § 10-103)

ARTICLE 2: PROPERTY IN POLICE CUSTODY

Section

- 10-201 Regulations
- 10-202 Disposition
- 10-203 Same; exempt property
- 10-204 Claiming property
- 10-205 Proof of ownership
- 10-206 Auction

§ 10-201 REGULATIONS.

The Police Department is required to establish regulations detailing the collection, storage, and inventory of property that may come under its control by any manner.
(1993 Code, § 10-201)

§ 10-202 DISPOSITION.

Any property which has been acquired or turned over to the Police Department and has been classified in accordance with procedures existing in the Police Department as unclaimed or for which the proper owner cannot be ascertained shall be kept for a minimum of 90 days. After a period of 90 days, such property, except as provided in § 10-203, shall be sold at public auction to the highest bidder and the proceeds after expenses shall be paid to the City General Fund.
(1993 Code, § 10-202)

§ 10-203 SAME; EXEMPT PROPERTY.

The following classes of property shall be considered exceptions to § 10-202 and shall be dealt with in the following manner.

(a) Cash money shall be turned over to the City General Fund unless it shall be determined to have collector's value, in which case it shall be auctioned according to the provisions in § 10-202.

(b) Except as provided in divisions (c) and (d) below, any weapon or ammunition, in the discretion of the court having jurisdiction of the property, shall be:

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(1) Forfeited to the law enforcement agency seizing the weapon for use within such agency, for sale to a properly licensed federal firearms dealer, for trading to a properly licensed federal firearms dealer, for trading to a properly licensed federal firearms dealer for other new or used firearms or accessories for use within such agency or for trading to another law enforcement agency for that agency's use;

(2) Forfeited to the Kansas Bureau of Investigation for law enforcement, testing or comparison by the Kansas Bureau of Investigation forensic laboratory;

(3) Forfeited to a county regional forensic science center, or other county forensic laboratory for testing, comparison, or other forensic science purposes; or

(4) Forfeited to the Kansas Department of Wildlife, Parks and Tourism for use pursuant to the conditions set forth in K.S.A. 32-1047, and amendments thereto.

(c) Except as provided in division (d) below, any weapon which cannot be forfeited pursuant to division (b) above due to the condition of the weapon, shall be destroyed.

(d) If a weapon is seized from an individual and the individual is not convicted of the violation for which the weapon was seized, then within 30 days after the declination or conclusion of prosecution the case against the individual, including any period of appeal, the law enforcement agency that seized the weapon shall verify that the weapon is not stolen, and upon such verification shall notify the person from whom it was seized that the weapon may be retrieved. Such notification shall include the location where such weapon may be retrieved.

(e) If weapons are sold as authorized by division (b) above, the proceeds of the sale shall be credited to the Asset Seizure and Forfeiture Fund of the seizing agency.

(f) For purposes of divisions (b), (c), and (d) above, the term **WEAPON** means any:

(1) Bludgeon, sand club, metal knuckle, or throwing star;

(2) Dagger, dirk, billy, blackjack, slungshot, dangerous knife, straight-edged razor, stiletto, or any other dangerous or deadly weapon or instrument of like character;

(3) Spring gun; or

(4) Firearm.

(g) Homemade weapons or weapons of a contraband nature shall be destroyed.

(h) Any items determined to be contraband such as explosives, narcotics, and the like shall be destroyed.

(i) Items of a pharmaceutical nature, which, while not contraband when properly dispensed, or which are of an over-the-counter-variety, shall be destroyed.

(j) Foodstuffs, if sealed and undamaged, may be turned over to any appropriate social service agency or destroyed, but shall not be auctioned.

(k) Alcohol products such as beer, wine, whiskey, and the like shall be destroyed.

(l) Items with a value in excess of \$500 may be sold after advertising said item in a general circulation newspaper on at least two occasions. Such sales shall be by closed bid.
(K.S.A. 22-2512) (1993 Code, § 10-203)

§ 10-204 CLAIMING PROPERTY.

The Police Department shall be required to make reasonable attempts to locate the owner of any property in storage. However, the responsibility for claiming and identifying any such property shall rest solely with the owner.
(1993 Code, § 10-204)

§ 10-205 PROOF OF OWNERSHIP.

Claimants to any property in police storage shall be required to present reasonable proof of ownership and no property shall be released unless such reasonable proof is presented.
(1993 Code, § 10-205)

§ 10-206 AUCTION.

At such time as it has been determined that an auction is necessary to dispose of unclaimed property, an inventory listing all property to be disposed of shall be prepared and kept on file in the Police Department. Notice of an auction shall be published at least twice in a general circulation newspaper before the date of the auction. The notice shall specify the date, time, and place of the auction and shall also notify prospective buyers or potential claimants that a list of items to be auctioned is available at the Police Department and any claims on property must be made before the start of the auction.
(1993 Code, § 10-206)

ARTICLE 3: POLICE FEES

Section

- 10-301 Fee for police responses to party
- 10-302 Initial police responses to parties, gatherings, or events
- 10-303 Subsequent police responses to parties, gatherings, or events; liability
- 10-304 Cost; collection

§ 10-301 FEE FOR POLICE RESPONSES TO PARTY.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

HOST. The person who owns or is in possession of the property where the party, gathering, or event takes place, or the person in charge of the premises, or the person who organized the event. If the **HOST** is a minor, then the parents or guardians of that minor will be jointly and severally liable for the fee incurred for police services.

PARTY, GATHERING, or EVENT. An event involving a group of persons who have assembled or are assembling for a social occasion or for a social activity.

POLICE SERVICES FEE. The cost to the city of any special security assignment, including, but not limited to, salaries of police officers while responding to or remaining at the party, gathering, or event; the pro rata cost of equipment; the cost of repairing city equipment and property; the cost of any medical treatment of injured police officers; and the cost of reasonable attorney's fees.

SPECIAL SECURITY ASSIGNMENT. The assignment of police officers, services, and equipment during a second or subsequent response to the party, gathering, or event after the delivery of a written notice to the host that a fee may be imposed for costs incurred by the city for any subsequent police response.

(1993 Code, § 10-301)

§ 10-302 INITIAL POLICE RESPONSES TO PARTIES, GATHERINGS, OR EVENTS.

When any police officer responds to any party, gathering, or event and that police officer determines there is a threat to the public peace, health, safety, or general welfare, the police officer shall issue a written notice to the host or hosts that a subsequent response to that same location or address within 24

hours of the first response shall be deemed a special security assignment rendered to provide security and order on behalf of the party, gathering, or event and that the host may be liable for a police services fee as defined in this article.

(1993 Code, § 10-302)

§ 10-303 SUBSEQUENT POLICE RESPONSES TO PARTIES, GATHERINGS, OR EVENTS; LIABILITY.

(a) If, after a written notice is issued pursuant to § 10-302, a subsequent police response or responses is necessary to the same location or address within 24 hours of the first response, such response or responses shall be deemed a special security assignment. Persons previously warned shall be jointly and severally liable for a police services fee as defined in this article.

(b) The amount of the fee shall be a debt owed to the city by the person or person warned, and if he or she is a minor, his or her parents or guardians shall be jointly and severally liable for the debt.

(1993 Code, § 10-303)

§ 10-304 COST; COLLECTION.

The Chief of Police shall notify the City Treasurer in writing of the performance of a special security assignment, of the name and address of the responsible person or persons, the date and time of the incident, the services performed, the costs, and such other information as may be required. The City Treasurer shall thereafter cause appropriate billings to be made.

(1993 Code, § 10-304)

CHAPTER XI: PUBLIC OFFENSES

Article

- 1. UNIFORM OFFENSE CODE**
- 2. LOCAL REGULATIONS**

ARTICLE 1: UNIFORM OFFENSE CODE

Section

11-101 Incorporating the Uniform Public Offense Code

§ 11-101 INCORPORATING THE UNIFORM PUBLIC OFFENSE CODE.

(a) There is hereby incorporated by reference for the purposes of regulating public offenses within the corporate limits of the city that certain code known as the “Uniform Public Offense Code for Kansas Cities”, 33rd edition published in 2016, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas. No fewer than three copies of said Uniform Public Offense Code shall be marked or stamped “Official Copy as Adopted by Ord. 626”, and to which shall be attached a copy of the ordinance codified herein and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours. The City Attorney, Municipal Judge, and all administrative departments of the city charged with enforcement of the ordinance codified herein shall be supplied, at the cost of the city, such number of official copies of such Uniform Public Offense Code similarly marked, and as may deemed expedient.

(b) The governing body recognizes, accepts, and approves the prosecutorial discretion to be exercised by the City Attorney in prosecuting certain offenses set forth in the Public Offense Code and not others.

(1993 Code, § 11-101) (Ord. 626, passed 9-26-2011)

ARTICLE 2: LOCAL REGULATIONS

Section

11-201 Noise nuisances

§ 11-201 NOISE NUISANCES.

(a) The playing, using, operating, or permitting to be used or operated any radio, musical instrument, phonograph, jukebox, sound-amplifying device, or other sound-producing transmitting, or amplifying instrument or device, by whatever name known or designated, in such manner as to cast, emit or propel sound upon the public streets, avenues, or highways of the city of the purposes of advertising or attracting the attention of the public to any business, enterprise, person, building, or structure is declared a public nuisance and the same is prohibited.

(b) The playing, using, operating, or permitting to be played, used or operated, any radio, musical instrument, phonograph, jukebox, sound-amplifying device, or other sound-producing, transmitting or amplifying instrument or device, by whatever name known or designated, in such manner as to cast, emit, or propel sound upon the public streets, avenues, or highways of the city, in pitch, volume or degree greater than is normally acceptable to the human ear or persons of normal hearing ability in the room, enclosure, or near the vicinity of such instrument or device from which such sound is being produced or broadcast, is declared a public nuisance, and the same is prohibited.

(c) The use of any motor vehicle, motorcycle, bus, or other vehicle so out of repair or in such a manner as to create loud or unnecessary noise, grating, grinding, rattling, or other noise which shall annoy, distress, or disturb the quiet, comfort, or repose of any person of reasonable sensibilities with the vicinity.

(d) Any person, firm, or corporation violating any of the provisions of this section shall, upon conviction thereof, be fined in any sum not exceeding \$100, or be imprisoned not to exceed 30 days, or be both so fined and imprisoned.

(Ord. 629, passed 1-16-2012)

CHAPTER XII: PUBLIC PROPERTY

Article

1. CITY PARKS

ARTICLE 1: CITY PARKS

Section

- 12-101 City laws extended to park
- 12-102 Police jurisdiction over parks
- 12-103 Damaging park property
- 12-104 Vehicle regulations
- 12-105 Hunting
- 12-106 Fires
- 12-107 Camping prohibited
- 12-108 Sanitation
- 12-109 Prohibition against alcoholic beverages and cereal malt beverages
- 12-110 Preservation of natural state
- 12-111 General regulations

§ 12-101 CITY LAWS EXTENDED TO PARK.

The laws of the city shall extend to and cover all city parks.
(1993 Code, § 12-101)

§ 12-102 POLICE JURISDICTION OVER PARKS.

The city shall have police regulations governing any public parks belonging to the city and the Chief of Police and law enforcement officers of the city and county shall have full power to enforce city laws governing city parks and shall maintain order therein.
(1993 Code, § 12-102)

§ 12-103 DAMAGING PARK PROPERTY.

It shall be unlawful for any person, except duly authorized city employees, to willfully or wantonly remove, injure, tarnish, deface, or destroy any building, walk, bench, tree, or improvement or property of any kind belonging to any park owned by the city.
(1993 Code, § 12-103)

§ 12-104 VEHICLE REGULATIONS.

(a) Motor vehicles, including any vehicle licensed to operate on public streets, roads, and highways and motorbikes shall be operated in a safe and prudent manner at all times in park areas.

(b) Except as provided in division (d) below, it shall be unlawful for any person to park any motor vehicle in any area not designated for such purpose.

(c) Except as provided in division (d) below, it shall be unlawful for any person to operate any motor vehicle within any city park, except upon roads, drives, and parking areas established by the city.

(d) Divisions (b) and (c) above shall not apply to individuals authorized by the city and city employees while engaged in the maintenance and care of the park.

(e) It shall be unlawful to operate any such vehicle in any park area at a speed in excess of 20 mph. (1993 Code, § 12-105)

§ 12-105 HUNTING.

It shall be unlawful for any person to pursue, catch, trap, maim, kill, shoot, or take any wildlife, either bird or animal, in any manner at any time while in any city park. (1993 Code, § 12-106)

§ 12-106 FIRES.

It shall be unlawful for any person to build or kindle any fire in any city park, except in the ovens, stoves, or grills provided for that purpose by the city, and such fire must be extinguished by the person, persons, or parties starting such fire, immediately after use thereof. (1993 Code, § 12-107)

§ 12-107 CAMPING PROHIBITED.

Overnight camping is hereby prohibited in city parks, except where posted. (1993 Code, § 12-108)

§ 12-108 SANITATION.

All waste material, paper, trash, rubbish, tin cans, bottles, containers, garbage, and refuse of any kind whatsoever shall be deposited in disposal containers provided for such purposes. No such waste or contaminating material shall be discarded otherwise. No sticks, stones, trash, or other objects shall be

thrown or discarded in or on any park lands, fountains, pools, drinking fountains, sanitary facilities, or other improvements.

(1993 Code, § 12-109)

§ 12-109 PROHIBITION AGAINST ALCOHOLIC BEVERAGES AND CEREAL MALT BEVERAGES.

It shall be unlawful for any person or persons to use, consume, or have on the premises of any park or other city property within the city any alcoholic liquor or cereal malt beverage.

(1993 Code, § 12-110)

§ 12-110 PRESERVATION OF NATURAL STATE.

It shall be unlawful for any person, except duly authorized city employees, to take, injure, or disturb any live or dead tree, plant, shrub, or flower, or otherwise interfere with the natural state of city parks.

(1993 Code, § 12-111)

§ 12-111 GENERAL REGULATIONS.

The city may post such rules and regulations, as are approved by the governing body, pertaining to the use of the city parks in a conspicuous place in each city park. Violations of these posted rules shall constitute a violation of this code.

(1993 Code, § 12-112)

CHAPTER XIII: STREETS AND SIDEWALKS

Article

- 1. SIDEWALKS**
- 2. STREETS**
- 3. TREES AND SHRUBS**
- 4. SNOW AND ICE**

ARTICLE 1: SIDEWALKS

Section

- 13-101 Permit required
- 13-102 Sidewalk grade
- 13-103 Same; specifications
- 13-104 Same; petition
- 13-105 Same; condemnation, reconstruction
- 13-106 Notice; publication
- 13-107 Right of abutting owner
- 13-108 Repairs by owner or city
- 13-109 Performance, statutory bond
- 13-110 Obstructing sidewalks
- 13-111 Same; exception

§ 13-101 PERMIT REQUIRED.

It shall be unlawful to construct, reconstruct, or repair any sidewalk within the city until the plans first have been approved by the governing body and a permit issued for such work by the City Clerk. (1993 Code, § 13-101)

§ 13-102 SIDEWALK GRADE.

Hereafter, all sidewalks constructed or reconstructed in the city shall be constructed on the established grade. When the governing body shall order a sidewalk constructed as hereafter provided, the city shall pay the cost of bringing the street to grade for the sidewalk. Where no grade has been established, the owner of abutting property may construct a sidewalk on the natural grade. If the grade has been established, the City Clerk shall furnish the property owner with the official grade by reference to a stated distance above or below the street grade.

(K.S.A. 12-1801; K.S.A. 12-1807) (1993 Code, § 13-102)

§ 13-103 SAME; SPECIFICATIONS.

Hereafter, all sidewalks shall be of single-course construction and shall be constructed and laid in accordance with standard plans and specifications hereby adopted by reference and filed in the office of

the City Clerk as provided by K.S.A. 12-1802. It shall be unlawful for any person, firm, or corporation to construct, reconstruct, or repair any sidewalk except as provided by this article.
(1993 Code, § 13-103)

§ 13-104 SAME; PETITION.

When a petition signed by no fewer than ten citizens owning real estate in the city requesting construction of a sidewalk is filed with the City Clerk, the governing body may, in its discretion, by a resolution, order such sidewalk constructed as herein provided.
(K.S.A. 12-1803) (1993 Code, § 13-104)

§ 13-105 SAME; CONDEMNATION, RECONSTRUCTION.

When any sidewalk, in the opinion of the governing body, becomes inadequate or unsafe for travel thereon, the governing body may adopt a resolution condemning such sidewalk and providing for the construction of a new sidewalk in the place of the sidewalk condemned.
(K.S.A. 12-1804) (1993 Code, § 13-105)

§ 13-106 NOTICE; PUBLICATION.

The resolution providing for the construction or reconstruction of a sidewalk, as the case may be, shall give the owner of the abutting property not less than 30 days, nor more than 60 days, after its publication one time in the official city paper in which to construct or cause to be constructed or reconstructed the sidewalk at his or her own expense. If the sidewalk is not constructed by the property owner within the time specified, the governing body shall cause the work to be done by contract.
(K.S.A. 12-1805) (1993 Code, § 13-106)

§ 13-107 RIGHT OF ABUTTING OWNER.

Nothing in this article shall be construed to prohibit the owner of property abutting on a street, who desires to construct or reconstruct a sidewalk at his or her own expense and in accordance with official plans and specifications for the purpose and which meet such other requirements as would have to be met if the sidewalk were constructed or reconstructed by the city, to construct or reconstruct a sidewalk without any petition or a condemning resolution by the governing body. If such property owner desires the sidewalk to be constructed and reconstructed by the city and an assessment levied as provided by law in other cases, he or she shall file a request with the governing body. The governing body, in its discretion, may provide for the construction or reconstruction of the sidewalk requested in the same manner as in other cases where citizens or taxpayers petition the governing body.
(K.S.A. 12-1806) (1993 Code, § 13-107)

§ 13-108 REPAIRS BY OWNER OR CITY.

It shall be the duty of the owner of the abutting property to keep the sidewalk in repair, but the city may, after giving five days' notice to the owner or his or her agent, if known, of the necessity for making repairs or without notice if the lot or piece of land is unoccupied, make all necessary repairs at any time. The same shall be done and the cost thereof assessed against the lot or piece of land abutting on the sidewalk so repaired as may be provided by law.

(K.S.A. 12-1808) (1993 Code, § 13-108)

§ 13-109 PERFORMANCE, STATUTORY BOND.

In any case where the reconstruction or construction of a sidewalk is required to be done by contract as provided in § 13-106 hereof, the governing body may require the contractor to give a bond for the faithful performance of the contract and for the construction of the sidewalk in accordance with the plans and specifications, ordinances of the city or laws of the state, and for all contracts exceeding \$1,000 entered into by the city for any such purpose a statutory lien bond required by K.S.A. 60-1111 shall be furnished.

(1993 Code, § 13-109)

§ 13-110 OBSTRUCTING SIDEWALKS.

It shall be unlawful for any person to build or construct any step or other obstruction, whether temporary or permanent, or to store, leave, or allow to be left any implements, tools, merchandise, goods, containers, benches, display, or show cases, on any sidewalks or other public ways in the city or to obstruct the same longer than is necessary for loading or unloading any such article or object.

(1993 Code, § 13-110)

§ 13-111 SAME; EXCEPTION.

The governing body may authorize the granting of temporary permits in connection with a building or moving permit for limited times only to the owner of property abutting on any sidewalk to use or encumber such sidewalk or public way of the city during the construction of any building or improvement thereon. No permit shall be issued for such purpose until plans for warning and safeguarding the public during such use of sidewalks shall have been submitted by the owner or his or her contractor and approved by the governing body.

(1993 Code, § 13-111)

ARTICLE 2: STREETS

Section

- 13-201 Excavation permit
- 13-202 Same; bond
- 13-203 Same; filed
- 13-204 Same; barricades
- 13-205 Same; unlawful acts
- 13-206 Cutting curbs; pavement
- 13-207 Altering drainage
- 13-208 Unfinished pavement
- 13-209 Using streets
- 13-210 Dangerous objects in
- 13-211 Petroleum products in streets
- 13-212 Discharging water on streets
- 13-213 Burning in streets
- 13-214 Throwing in streets
- 13-215 Hauling loose material

§ 13-201 EXCAVATION PERMIT.

No person, other than authorized city employees, 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 a permit for such excavation. Application shall be made to the City Clerk.

(1993 Code, § 13-201)

§ 13-202 SAME; BOND.

(a) No permit authorized in this article shall be issued until the applicant has given to the city a good and sufficient bond in the sum of \$5,000 conditioned that the applicant will faithfully comply with all the terms and conditions of this article, and will indemnify and hold the city harmless against all costs, expenses, damages, and injuries by persons or by the city sustained by reason of the carelessness or negligence of the permit holder. No bond for this purpose shall run for longer than two years without being renewed. The bond shall remain in full force and effect as to each excavation for two years after the same has been made or completed.

(b) Any utility operating under a franchise or a contractor under contract with the city for municipal improvement shall not be required to give bond as provided in division (a) above.

(c) Each bond given under this section shall be approved by the City Attorney and filed with the City Clerk.

(1993 Code, § 13-202)

§ 13-203 SAME; FILED.

If the application is approved by the city, the City Clerk shall issue a permit upon payment of a fee of \$5. Each permit issued under the provisions of this article shall cover only one specified excavation.

(1993 Code, § 13-203)

§ 13-204 SAME; BARRICADES.

Any person to whom an excavation permit is issued shall enclose all excavations that he or she make with sufficient barricades and danger signs at all times, and shall maintain sufficient warning lights or flares at nighttime. The holder of an excavation permit shall take all necessary precautions to guard the public against all accidents from the beginning of the work to the completion of the same.

(1993 Code, § 13-204)

§ 13-205 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.

(1993 Code, § 13-205)

§ 13-206 CUTTING CURBS; PAVEMENT.

(a) No person shall cut any curb, gutter, pavement, blacktop, or 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.

(b) 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.

(c) 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.

(1993 Code, § 13-206)

§ 13-207 ALTERING DRAINAGE.

No person shall change or alter any gutter, storm sewer, drain, or drainage structure that has been constructed or is being lawfully maintained or controlled by the city, unless such change or alteration has been authorized or directed by the governing body.

(1993 Code, § 13-207)

§ 13-208 UNFINISHED PAVEMENT.

No person shall walk upon, drive, or ride over or across any pavement, sidewalk, or incomplete grading that has not been opened for traffic.

(1993 Code, § 13-208)

§ 13-209 USING STREETS.

(a) No person shall occupy any portion of any street, alley, or sidewalk for the purpose of temporarily storing building materials without first obtaining a permit for such temporary use from the governing body.

(b) No person may use any portion of any sidewalk or street right-of-way for the purpose of displaying or offering for sale wares, goods, merchandise, or other items. Nothing in this article, however, shall be construed as prohibiting the city governing body from temporarily waiving the prohibition of this division (b) in connection with community promotions or community-wide celebrations when such waiver is considered to be in the best interest of the city.

(1993 Code, § 13-209)

§ 13-210 DANGEROUS OBJECTS IN.

It shall be unlawful for any person to place, throw, or cause to be placed or thrown in or on any street, alley, sidewalk, or other public grounds of the city, any glass, tacks, nails, bottles, wire, or other dangerous objects that might wound any person or animal, or cut or puncture any pneumatic tire while passing over the same.

(1993 Code, § 13-210)

§ 13-211 PETROLEUM PRODUCTS IN STREETS.

It shall be unlawful for any person, firm, or corporation to deposit or throw any waste oil, fuel oil, kerosene, gasoline, or other products of petroleum or any acids into or upon any street or public grounds of the city, or willfully to permit the same to be spilled, dripped, or otherwise to come into contact with the surface of any street, alley, or sidewalk within the city.

(1993 Code, § 13-211)

§ 13-212 DISCHARGING WATER ON STREETS.

It shall be unlawful for any person, firm, or corporation to throw or discharge water into any ditch, street, avenue, or alley in the city or to cause any water to stand or form pools or to flow in a stream thereon. This section shall not apply to persons cleaning or flushing such streets, avenues, or alleys under the authority of the governing body, nor to members of the Fire Department.
(1993 Code, § 13-212)

§ 13-213 BURNING IN STREETS.

It shall be unlawful for any person to make or cause to be made, any fire upon any of the paved streets, alleys, or street intersections within the city.
(1993 Code, § 13-213)

§ 13-214 THROWING IN STREETS.

It shall be unlawful to throw or bat any ball, stone, or other hard substance into, on, or across any street or alley or at or against any building or vehicle.
(1993 Code, § 13-214)

§ 13-215 HAULING LOOSE MATERIAL.

It shall be unlawful to haul over the streets or alleys of this city any loose material of any kind except in a vehicle so constructed or maintained as to prevent the splashing or spilling of any of the substances therein contained upon the streets or alleys.
(1993 Code, § 13-215)

ARTICLE 3: TREES AND SHRUBS

Section

- 13-301 Definitions
- 13-302 City Forester; term of office
- 13-303 Same; compensation
- 13-304 Same; duties and responsibilities
- 13-305 Street tree species to be planted
- 13-306 Spacing and clearance specifications for tree plantings
- 13-307 Public tree care
- 13-308 Permission required
- 13-309 Compensatory payments
- 13-310 Tree topping
- 13-311 Dead or diseased tree removal
- 13-312 Removal of stumps
- 13-313 Interference with the city or community forestry program
- 13-314 Access
- 13-315 Arborist license and policy
- 13-316 Review by City Council

§ 13-301 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CITY FORESTER. The official representative for the city to whom the city has given the responsibility for administration of the community forestry program.

COMMUNITY FOREST. All street and park trees as a total resource.

PARK TREES. Trees, shrubs, bushes, and all other woody vegetation in public parks having individual names, and all areas owned by the city, or to which the public has free access as a park.

STREET TREES. Trees, shrubs, bushes, and all other woody vegetation on land lying between the property one on either side of all streets, avenues, or ways within the city.
(1993 Code, § 13-301) (Ord. 249, passed - -)

§ 13-302 CITY FORESTER; TERM OF OFFICE.

The term of the City Forester shall be for two years, with no limit to the number of successive terms. The Mayor shall appoint the individual serving in the capacity of City Forester. In the event a vacancy shall occur during the term of any City Forester, the Mayor shall appoint a successor for the duration of the unexpired term.

(1993 Code, § 13-302) (Ord. 249, passed - -)

§ 13-303 SAME; COMPENSATION.

The City Forester shall serve without compensation.

(1993 Code, § 13-303) (Ord. 249, passed - -)

§ 13-304 SAME; DUTIES AND RESPONSIBILITIES.

(a) The city will be responsible for the enforcement of the tree ordinance, and the City Forester will be responsible for the supervision of, and compliance with, the community forestry program. The City Forester's duties will be to study, investigate, counsel, and develop and administer a written plan for the care, replacement, maintenance, and removal or disposition of trees and shrubs in parks, along streets, and in other public areas. The City Forester shall annually update and present this written plan to the City Council. Upon the Council's acceptance and approval, the written plan shall constitute the official comprehensive city forestry plan for the city. It shall also be the responsibility of the City Forester to keep a journal or other acceptable recording method to document relevant activities.

(b) While the city is responsible for the enforcement of the tree ordinance, the City Forester, when requested by the City Council, shall consider, investigate, make finding, report, and recommendation upon any special matter or question coming within the scope of his or her work.

(1993 Code, § 13-304) (Ord. 249, passed - -)

§ 13-305 STREET TREE SPECIES TO BE PLANTED.

The city shall maintain a list of recommended trees for planting in public areas. This list shall be available to residents of the city upon request to aid in the selection of trees for private properties; however, this section does not seek to restrict or disallow a private landowner from planting a tree that is not on the recommended tree list. The list of recommended trees shall be updated periodically to reflect new developments or species that will affect the population of the community forest.

(1993 Code, § 13-305) (Ord. 249, passed - -)

§ 13-306 SPACING AND CLEARANCE SPECIFICATIONS FOR TREE PLANTINGS.

(a) Street trees may be planted no closer than 30 feet, except in special plantings, and no street tree shall be planted closer than 25 feet from any street corner or within ten feet of any fireplug.

(b) Street trees may be planted in the tree lawn where there is more than six feet between the edge of the sidewalk and the curb of the street. Street trees shall be planted no closer than three feet from any sidewalk or street.

(c) Special permission must be obtained from the city when planting street trees within ten feet of any point of an imaginary line on the ground immediately below any overhead utility wire, or within five lateral feet of any underground water line, sewer line, transmission line, or other utility. For existing trees below utility lines, clearance over streets and walkways shall be at the discretion of the city, but subject to utility company authority.

(1993 Code, § 13-306) (Ord. 249, passed - -)

§ 13-307 PUBLIC TREE CARE.

(a) The city shall have the right to plant, prune, maintain, and remove trees, plants, and shrubs within right-of-way or bounds of all streets, alleys, lanes, squares, and public grounds as may be necessary to ensure the public safety or to preserve or enhance the beauty of such public grounds.

(b) The city may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition, or which by reason of its nature is injurious to sewers, electric power lines gas lines, water lines, or other public improvements or is seriously infected with any injurious insect or disease.

(1993 Code, § 13-307) (Ord. 249, passed - -)

§ 13-308 PERMISSION REQUIRED.

No person shall plant a street tree or any other tree in the public right-of-way without proper approval.

(1993 Code, § 13-308) (Ord. 249, passed - -)

§ 13-309 COMPENSATORY PAYMENTS.

No person shall remove any desirable, non-diseased public tree without replacing such tree with a tree or trees of equivalent dollar value in the vicinity of the removed tree. The value of the removed tree or trees shall be determined by the city using the International Society of Arboriculture Tree Value Formula publication which addresses species, location, size, and condition of trees. If no suitable location exists in the vicinity of the tree removed, or if the replacement tree is of lesser value, the person causing the tree to be removed shall also make a compensatory payment to the city equal to the difference in value between the tree removed and any replacement tree. Such compensatory payment shall be paid into the Tree Maintenance Fund and used solely for the enhancement of the community forest.

(1993 Code, § 13-309) (Ord. 249, passed - -)

§ 13-310 TREE TOPPING.

It shall be unlawful as a normal practice for any person to top any street tree, park tree, or other tree on public property. *TOPPING* is defined as the severe cutting back of limbs to stubs larger than three

inches in diameter within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree.

(1993 Code, § 13-310) (Ord. 249, passed - -)

§ 13-311 DEAD OR DISEASED TREE REMOVAL.

(a) The city shall remove or cause to be removed any dead or diseased tree within the city limits. ***DISEASED TREES*** are defined as those trees that may constitute a hazard to life and property, or harbor insects or disease which represent a potential threat to other trees within the city.

(b) The city will notify in writing the owners of such trees. Removal is the responsibility of the owners of such trees and shall be accomplished within 60 days of notification. In the event of failure to remove by the owner, the city shall have the authority to remove such trees and charge the cost of removal on the owners property tax notice.

(1993 Code, § 13-311) (Ord. 249, passed - -)

§ 13-312 REMOVAL OF STUMPS.

All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

(1993 Code, § 13-312) (Ord. 249, passed - -)

§ 13-313 INTERFERENCE WITH THE CITY OR COMMUNITY FORESTRY PROGRAM.

It shall be unlawful for any person to prevent, delay, or interfere with the city or any of its representatives while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any trees within the community forest, as authorized in this article.

(1993 Code, § 13-313) (Ord. 249, passed - -)

§ 13-314 ACCESS.

It shall be unlawful for any person to prevent, delay or interfere with access to private property by the city or its representatives in the legal performance of any section of this article.

(1993 Code, § 13-314) (Ord. 249, passed - -)

§ 13-315 ARBORIST LICENSE AND POLICY.

It shall be unlawful for any person to engage in the business or occupation of pruning, treating, or removing any street tree or park tree without first consulting with, and gaining the approval of, the city. No license shall be required for any public service or employee doing such work in the pursuit of their public service endeavors.

(1993 Code, § 13-315) (Ord. 249, passed - -)

§ 13-316 REVIEW BY CITY COUNCIL.

The City Council shall have the right to review the conduct, acts, and decisions of the City Forester. Any person may appeal any ruling or order of the City Forester to the City Council who may hear the matter and make a final decision.

(1993 Code, § 13-316) (Ord. 249, passed - -)

ARTICLE 4: SNOW AND ICE

Section

- 13-401 Snow and ice to be removed
- 13-402 Same: exception; alternate remedy
- 13-403 Same; penalty
- 13-404 Removal may be made by city
- 13-405 Costs on tax rolls

§ 13-401 SNOW AND ICE TO BE REMOVED.

(a) It shall be unlawful for the owner and/or the occupant of any lots abutting upon any sidewalks to fail to cause to be removed from such sidewalks all snow and ice within 12 hours from the time that the snow fall or ice storm ceases. If the snow falls or ice accumulates upon the sidewalks in the nighttime, removal of same must be made within 12 hours after sunrise on the following day.

(b) It shall be unlawful for any person to place snow removed from private property upon any public street, alley, or sidewalk.
(1993 Code, § 13-401)

§ 13-402 SAME: EXCEPTION; ALTERNATE REMEDY.

Where there shall be ice or compacted snow on any such sidewalk of such a character as to make it practically impossible to remove the same, the sprinkling of ashes, sand, or other non-corrosive chemicals on the accumulation of ice or snow in such a manner as to make such sidewalk reasonably safe for pedestrian travel shall be deemed a sufficient compliance with the provisions of this article until the ice or snow can be removed.
(1993 Code, § 13-402)

§ 13-403 SAME; PENALTY.

Any person violating the provisions of § 13-401 shall, upon conviction, be fined \$25.
(1993 Code, § 13-403)

§ 13-404 REMOVAL MAY BE MADE BY CITY.

If any owner or occupant of any lot or lots shall refuse or neglect to clean or remove from the sidewalk abutting the lot or lots all snow and ice within the time specified, the city may cause such snow

and ice to be removed from sidewalks and the cost thereof shall be assessed against such abutting lot or lots, and the City Clerk shall certify the same to the County Clerk for collection as provided by law. (1993 Code, § 13-404)

§ 13-405 COSTS ON TAX ROLLS.

The City Clerk shall, at the time of certifying other city taxes to the County Clerk, certify the unpaid costs for removal of snow or ice performed under the authority of § 13-404 and the County Clerk shall extend the same on the tax roll of the county against the lot or parcel of ground. The cost of such work shall be paid from the General Fund or other proper fund of the city, and such fund shall be reimbursed when payments therefor are received or when such assessments are collected and received by the city. (1993 Code, § 13-405)

CHAPTER XIV: TRAFFIC

Article

- 1. STANDARD TRAFFIC ORDINANCE**
- 2. LOCAL TRAFFIC REGULATIONS**
- 3. GOLF CARTS**
- 4. HAZARDOUS MATERIALS**

ARTICLE 1: STANDARD TRAFFIC ORDINANCE

Section

- 14-101 Incorporating standard traffic ordinance
- 14-102 Same; traffic infractions and traffic offenses
- 14-103 Penalty for scheduled fines

§ 14-101 INCORPORATING STANDARD TRAFFIC ORDINANCE.

There is hereby incorporated by reference for the purpose of regulating traffic within the corporate limits of the city, that certain traffic ordinance known as the “Standard Traffic Ordinance for Kansas Cities”, 44th edition published in 2016, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas. No fewer than three copies of said Standard Traffic Ordinance shall be marked or stamped “Official Copy as Adopted by Ord. 512”, and to which shall be attached a copy of the ordinance codified herein, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours. The Police Department, Municipal Judge, and all administrative departments of the city charged with enforcement of the ordinance shall be supplied, at the cost of the city, such a number of official copies of such Standard Traffic Ordinance similarly marked, as may be deemed expedient.

(1993 Code, § 14-101) (Ord. 625, passed 9-26-2011)

§ 14-102 SAME; TRAFFIC INFRACTIONS AND TRAFFIC OFFENSES.

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

(b) All traffic violations which are included within this Standard Traffic Ordinance, and which are not ordinance traffic infractions, as defined in division (a) above, shall be considered traffic offenses.

(1993 Code, § 14-102) (Ord. 625, passed 9-26-2011)

§ 14-103 PENALTY FOR SCHEDULED FINES.

The fine for violation of an ordinance traffic infraction or any other traffic offense for which the Municipal Judge establishes a fine in a fine schedule shall not be less than \$10, nor more than \$30, except for speeding which shall not be less than \$10, nor more than \$500. A person tried and convicted

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for violation of an ordinance traffic infraction or other traffic offense for which a fine has been established in a schedule of fines shall pay a fine fixed by the Court not to exceed \$500.
(1993 Code, § 14-103)

ARTICLE 2: LOCAL TRAFFIC REGULATIONS

Section

- 14-201 Traffic-control devices and markings
- 14-202 Through streets
- 14-203 Stop intersections
- 14-204 Yield right-of-way; sign locations
- 14-205 Speed limits
- 14-206 Angle parking
- 14-207 Truck parking

§ 14-201 TRAFFIC-CONTROL DEVICES AND MARKINGS.

The Standard Traffic Ordinance, as adopted, is hereby modified by adding thereto the following: the governing body may, by resolution, establish and fix the location of such traffic-control devices as may be deemed necessary to guide and warn traffic under the provisions of this chapter, other traffic ordinances, and the state laws. The city shall place and maintain such traffic-control signs, signals, and devices when and as may be required by the authority of the governing body to make effective the provisions of this chapter and other ordinances for the regulation of traffic. Any official traffic-control device placed pursuant to this section shall be marked and labeled on a map of the city for the purpose of displaying all such traffic-control devices and shall be filed with the City Clerk to be open to inspection and available to the public at all reasonable hours of business.

(1993 Code, § 14-201)

§ 14-202 THROUGH STREETS.

When signs are erected giving notice thereof, drivers of vehicles shall stop as the sign directs at every intersection before entering any of the following streets or parts of streets, which are hereby designated through streets:

- (a) First Street (U.S. 54);
- (b) Douglas Street from Fourth Street to First Street;
- (c) Henderson Street from Fourth Street to First Street;
- (d) Main Street from Fourth Street to First Street; and

(e) Valley Street from Fourth Street to First Street.
(1993 Code, § 14-202)

§ 14-203 STOP INTERSECTIONS.

When signs are erected giving notice thereof, drivers of vehicles shall stop as the sign directs as follows:

(a) All traffic entering Main Street from the west from Fourth to First Street shall stop before entering;

(b) All traffic entering Main Street from the east from Fourth to First Street shall stop before entering;

(c) All traffic entering Valley Street from the west from Swick Avenue to First Street shall stop before entering;

(d) All traffic entering Valley Street from the east from Swick Avenue to First Street shall stop before entering;

(e) All traffic entering Valley Street from the west from First Street to Fourth Street shall stop before entering;

(f) All traffic entering Valley Street from the east from First Street to Fourth Street shall stop before entering; and

(g) All traffic entering Leiter Ave. from the north from Elliott Street shall stop before entering.
(1993 Code, § 14-203)

§ 14-204 YIELD RIGHT-OF-WAY; SIGN LOCATIONS.

When signs are erected giving notice thereof, drivers of vehicles shall yield the right-of-way as follows:

(a) All traffic entering Elliott Street from Florence Street shall yield the right-of-way to traffic on Elliott Street;

(b) All traffic entering Elliott Street from Estella Street shall yield the right-of-way to traffic on Elliott Street;

(c) All traffic entering Douglas Street from the east from Fourth Street shall yield the right-of-way to traffic on Douglas Street;

(d) All traffic entering Stadium Street from the east from Fourth Street shall yield the right-of-way to traffic on Stadium Street;

(e) All traffic entering Douglas Street from Third Street shall yield the right-of-way to traffic on Douglas Street;

(f) All traffic entering Douglas Street from Second Street shall yield the right-of-way to traffic on Douglas Street;

(g) All traffic entering Henderson Street from Third Street shall yield the right-of-way to traffic on Henderson Street;

(h) All traffic entering Henderson Street from Second Street shall yield the right-of-way to traffic on Henderson Street;

(i) All traffic entering Second Street from the north from Dresden Street shall yield the right-of-way to traffic on Second Street;

(j) All traffic entering Elliott Street from Santa Fe Ave. shall yield the right-of-way to traffic on Elliott Street;

(k) All traffic entering Elliott Street from Atchison Street shall yield the right-of-way to traffic on Elliott Street; and

(l) All traffic entering Atchison Street from Main Street shall yield the right-of-way to traffic on Atchison Street.
(1993 Code, § 14-204)

§ 14-205 SPEED LIMITS.

(a) There shall be 30 mph speed limit signs on First Street in the city, both at the east city limits on the north side of the road and at the west city limits at the south side of the road.

(b) There shall be 30 mph speed limit signs on Valley Street in the city, both at the south city limits on the east side of the road and at the north city limits at the west side of the road.

(c) The speed limit for all other roads within the city shall be 20 mph.
(1993 Code, § 14-205) (Ord. 627, passed 9-26-2011)

§ 14-206 ANGLE PARKING.

Angle parking at the angle indicted on the curb, sidewalk, or pavement or by signs is hereby permitted on the following streets: on Main Street between First Street and Fourth Street, including both First Street and Fourth Street.
(1993 Code, § 14-206) (Ord. 240, passed - -)

§ 14-207 TRUCK PARKING.

(a) No semi-tractor and/or trailer shall be parked at any time on any street within the city limits, except for loading and unloading.

(b) No vehicle carrying anhydrous ammonia in amounts in excess of 150 gallons shall be parked at any time within a residential area.

(1993 Code, § 14-207) (Ord. 219, passed - -; Ord. 652, passed 1-25-2016)

ARTICLE 3: GOLF CARTS

Section

14-301 Operation requirements

14-302 Definition

14-303 Illegal operation

§ 14-301 OPERATION REQUIREMENTS.

(a) Golf carts may be operated upon the public highways, streets, roads, and alleys within the corporate limits of the city; provided, however, that, no golf cart may be operated upon any public highway, street, road, and alley with a posted speed limit in excess of 30 mph. No golf cart shall be operated on any interstate highway, federal highway, or state highway; provided, however, that, the provisions of this article shall not prohibit a golf cart from crossing a federal or state highway with a posted speed limit greater than 30 mph.

(b) No golf cart shall be operated on any public highway, street, road, or alley between sunset and sunrise.

(c) Every person operating a golf cart on the public highways, streets, roads, and alleys of the city shall be subject to all of the duties applicable to a driver of a vehicle imposed by law.

(d) No person shall operate a golf cart on any public highway, street, road, or alley within the corporate limits of the city unless such person has a valid driver's license. Violation of this article is punishable by a fine of not more than \$1,000 or by imprisonment for not more than six months or by both such fine and imprisonment.

(Ord. 630, passed 6-25-2012)

§ 14-302 DEFINITION.

GOLF CART means a motor vehicle that has not less than three wheels in contact with the ground, an unladen weight of not more than 1,800 pounds, is designed to be operated at not more than 25 mph and is designed to carry not more than six persons, including the driver.

(Ord. 630, passed 6-25-2012)

§ 14-303 ILLEGAL OPERATION.

(a) It shall be illegal for any person to operate a golf cart on any public highway, street, road, or alley with more passengers than the golf cart is designed to seat.

(b) It shall be illegal to operate a golf carts vehicle on any public highway, street, road, or alley within the corporate limits of the city unless such vehicle displays a slow moving vehicle emblem on the rear of the vehicle.

(Ord. 630, passed 6-25-2012)

ARTICLE 4: HAZARDOUS MATERIALS

Section

- 14-401 Hazardous material defined
- 14-402 Same; exceptions
- 14-403 Transportation of hazardous materials
- 14-404 Hazardous materials routes
- 14-405 Parking of vehicles or trailers carrying hazardous materials
- 14-406 Removal of illegally parked trailers

§ 14-401 HAZARDOUS MATERIAL DEFINED.

As used in this article, the term *HAZARDOUS MATERIAL* shall mean any material or combination of materials that, because of its quantity, concentration, or physical, chemical, biological, or infectious characteristics, poses a substantial present or potential hazard to human health or safety or the environment if released into the workplace or environment or when improperly treated, stored, transported, or disposed of or otherwise managed.

§ 14-402 SAME; EXCEPTIONS.

The provisions of this article shall not apply to any container that shall have a capacity of 150 gallons or less that shall be used for the purpose of supplying fuel for the vehicle on which it is mounted. These provisions shall also not apply to vehicles, trailers, containers, or tanks containing anhydrous ammonia or other material primarily used by farmers for fertilizer purposes when such vehicles, trailers, containers, or tanks are parked or housed upon property designated for the placement of such vehicle, trailer, container, or tank by any farmers cooperative, elevator company, or farm supply store located within the city limits.

§ 14-403 TRANSPORTATION OF HAZARDOUS MATERIALS.

Except as provided in § 14-404, it shall be unlawful for any person, firm, corporation, or other entity to transport any hazardous material upon any street, avenue, highway, road, alley, or any other public right-of-way in the city.

§ 14-404 HAZARDOUS MATERIALS ROUTES.

The provisions of § 14-403 shall apply to all streets, avenues, highways, roadways, alleys, or other public rights-of-way within the city, except those specified within this section where transportation of

hazardous materials shall be allowed. Transportation of hazardous materials shall be allowed upon the streets, avenues, highways, or roadways as determined by the city.

§ 14-405 PARKING OF VEHICLES OR TRAILERS CARRYING HAZARDOUS MATERIALS.

(a) Except as provided in divisions (b) and (c) below, it shall be unlawful for any person, firm, corporation, or other entity to park any vehicle, trailer, or semi-trailer carrying any hazardous material within any city zoning districts as defined in Chapter XVI of this code.

(b) Division (a) above shall not apply to vehicles, trailers, or semi-trailers parked for continuous periods of time not to exceed one hour where such vehicles, trailers, or semi-trailers are parked along those routes specified in § 14-404 of this code.

(c) Division (a) above shall not apply to any vehicle, trailer, or semi-trailer carrying any hazardous material where such vehicle, trailer, or semi-trailer is not parked within 500 feet of any structure used for human habitation.

§ 14-406 REMOVAL OF ILLEGALLY PARKED TRAILERS.

If any vehicle, trailer, or a semi-trailer is found parked in violation of the provisions of this article, the Fire Chief or Assistant Chief or any law enforcement officer may require the owner, operator, or lessee of the trailer to move it within two hours. If such removal is not accomplished on the order of any such officer, it may be accomplished by any such officer, by any reasonable means, if the continued presence of the trailer or semi-trailer at its parked location constitutes, adds to, or prevents correction of a situation threatening imminent injury or damage to persons or property.

CHAPTER XV: UTILITIES

Article

- 1. GENERAL PROVISIONS**
- 2. WATER**
- 3. ELECTRICITY**
- 4. SEWERS**
- 5. SOLID WASTE**
- 6. WATER CONSERVATION**

ARTICLE 1: GENERAL PROVISIONS

Section

- 15-101 Definition
- 15-102 Delinquent accounts
- 15-103 Notice; hearing
- 15-104 Same; finding
- 15-105 Utility service initiation fee
- 15-106 Delinquent accounts; refusal of service; termination of service; lien against property
- 15-107 Landlord liability
- 15-108 Utility services outside city limits
- 15-109 Petty Cash Fund
- 15-110 Same; deposits
- 15-111 Same; vouchers

§ 15-101 DEFINITION.

For the purpose of this article, the following definition shall apply unless the context clearly indicates or requires a different meaning.

UTILITY SERVICES. Includes water, electrical, sewer, solid waste (refuse), and other utility services provided by the city.
(1993 Code, § 15-101)

§ 15-102 DELINQUENT ACCOUNTS.

Unless otherwise provided, water, electric, sewer, solid waste (refuse), or other utility service shall be terminated for nonpayment of service fees or charges in accordance with §§ 15-103 and 15-104.
(1993 Code, § 15-102)

§ 15-103 NOTICE; HEARING.

(a) If a utility bill has not been paid on or before the due date as provided in this chapter, a delinquency and termination notice shall be issued by the City Clerk within five days after the delinquency occurs and mailed to the customer at his or her last known address. A copy also shall be mailed to the occupant of the premises if the occupant and the customer are not the same person.

(b) The notice shall state:

(1) The amount due, plus delinquency charge;

(2) Notice that service will be terminated if the amount due is not paid within ten days from the date of the notice unless the date on the notice to pay the charges due shall be on a Saturday, Sunday, or legal holiday, in which event such notice will give the consumer until the close of the next business day in which to pay the charges;

(3) Notice that the customer has the right to a hearing before the designated Hearing Officer;
and

(4) Notice that the request for a hearing must be in writing and filed with the City Clerk no later than three days prior to the date for termination of service.

(c) Upon receipt of a request for hearing, the City Clerk shall advise the customer of the date, time, and place of the hearing that shall be held within three working days following receipt of the request. (1993 Code, § 15-103)

§ 15-104 SAME; FINDING.

Following the hearing, if the Hearing Officer shall find that service should not be terminated, then notice of such finding shall be presented to the City Clerk. If the Officer finds that service should be terminated, an order shall be issued terminating service five days after the date of the order. The customer shall be notified either in person or by mailing a letter to his or her last known address by certified mail, return receipt requested. However, if the order is made at the hearing in the presence of the customer, then no further notice need be given. The Hearing Officer has a right, for good cause, to grant an extension, not to exceed ten days, for the termination of such service. (1993 Code, § 15-104)

§ 15-105 UTILITY SERVICE INITIATION FEE.

The City Clerk is authorized and directed to collect a utility service initiation fee in the amount of \$50 from all persons desiring to establish water and sewer service within the city. This initiation fee shall be collected prior to sewer and water connections being established and is nonrefundable. (1993 Code, § 15-106) (Ord. 505, passed 6-25-2001)

§ 15-106 DELINQUENT ACCOUNTS; REFUSAL OF SERVICE; TERMINATION OF SERVICE; LIEN AGAINST PROPERTY.

(a) In the event that any person, except the United States or the state, shall fail to pay the fees or charges for such utility services(s), utility service shall be terminated as provided in §§ 15-102 to 15-104. The governing body may refuse the delivery of utility service(s), as permitted by law, until such time as the fees and charges are paid in full.

(b) In the event that any person, except the United States or the state, residing, occupying, using, or operating on property to which utility service(s) furnished by the city is not paid, the unpaid fees or charges shall constitute a lien upon the property to which the utilities are furnished. The amount of the unpaid fees or charges shall be certified by the governing body to the County Clerk of the county in which the property is located, to be placed upon the tax roll for collection, subject to the same penalties and collected in the same manner as other taxes are collected by law.

(c) The lien, described in division (b) above, shall not attach to property for unpaid utility fees or charges when the utility service(s) have been contracted for by a tenant and not by the landlord or owner of the property to which the utility service is provided.

(d) If at the time of application for utility service the applicant has an outstanding balance or unpaid fees or charges for utility services provided by the city, the application shall not be accepted until all fees or charges are paid in full.

§ 15-107 LANDLORD LIABILITY.

(a) Owners of premises served by utility service under this article shall be liable for payment of the costs of any utility service account delinquency arising from service provides to such premises, regardless of whether the utility service was furnished upon the application and request of the owner or lessee of the premises. This provision shall also apply when the premises are leased by or through an agent or other representative of the owner.

(b) In the event that a delinquency arises involving leased premises, in addition to the tenant, the owner or owner’s agent shall be notified in writing of the delinquency of the lessee by first class regular mail within ten days after the billing to the lessee becomes delinquent. Notice shall be sufficient if mailed to the last known address of the owner or owner’s agent known to city personnel responsible for said mailing, after reasonable inquiry.

(c) If utility service is furnished to a leased premises on the application or request of the lessor of the premises, then all billings for utilities furnished to such leased premises shall be made directly to the lessor, and the lessor shall be fully liable for the cost of service finished.

(d) The city may collect the amount of the unpaid bill for utility services by any lawful means; provided, however, that, in no event may the city place a lien, as provided in § 15-106(b), on real estate of the lessor.

§ 15-108 UTILITY SERVICES OUTSIDE CITY LIMITS.

As of April 28, 2016, no utility services shall be provided or allowed unless the property to be served is completely within the city limits. This section shall not apply to active connections to the city’s utility services to property outside the city limits as of the effective date of this section.

(Ord. 654, passed 4-25-2016)

§ 15-109 PETTY CASH FUND.

A Petty Cash Fund in the amount of \$1,000 is established for the use of the City Utilities Department, for the purpose of paying postage, freight, temporary labor, and other emergency expenses, including refund of deposits made to secure payment of accounts.

(1993 Code, § 15-105)

§ 15-110 SAME; DEPOSITS.

The Petty Cash Fund shall be deposited in the regular depository bank of the city and paid out on the order of the City Clerk by check which shall state clearly the purpose for which issued.

§ 15-111 SAME; VOUCHERS.

Whenever the Petty Cash Fund becomes low or depleted, the City Clerk shall prepare vouchers covering expenses as have been paid from the Petty Cash Fund and shall submit such vouchers together with the paid checks to the governing body for review and allowance of the amounts from the regular funds of the utilities. Warrants issued therefor shall be payable to the Petty Cash Fund and shall be deposited therein to restore said Petty Cash Fund to its original amount.

(1993 Code, § 15-106)

ARTICLE 2: WATER

Section

- 15-201 Superintendent of Water and Sewage
- 15-202 Regulations
- 15-203 Service not guaranteed
- 15-204 Service connections required
- 15-205 Application for service
- 15-206 City to make connections
- 15-207 Connection fees
- 15-208 Curb cocks
- 15-209 Check valves
- 15-210 Unauthorized service
- 15-211 Meters
- 15-212 Same; testing
- 15-213 Tampering with meter
- 15-214 Leaks prohibited; penalty
- 15-215 Disconnection, reconnection charge
- 15-216 [Reserved]
- 15-217 Interrupt service
- 15-218 Prohibited acts
- 15-219 Wasting water
- 15-220 Right of access
- 15-221 Rates
- 15-221A Bulk water rates
- 15-222 Payment of bills
- 15-223 Delinquent accounts; notice; hearing; finding; liability
- 15-224 Use during fire
- 15-225 Cross-connections
- 15-226 Same; protective backflow devices required
- 15-227 Same; inspection
- 15-228 Same; protection from contaminants

§ 15-201 SUPERINTENDENT OF WATER AND SEWAGE.

The general management, care, control, and supervision of the city water system shall be in the Superintendent of Water and Sewage, who shall be appointed by the Mayor with the consent of the governing body.

(1993 Code, § 15-201)

§ 15-202 REGULATIONS.

The furnishing of water to customers by the city through its waterworks system shall be governed by the regulations set out in this article.

(1993 Code, § 15-202)

§ 15-203 SERVICE NOT GUARANTEED.

The city does not guarantee the delivery of water through any of its mains and connecting services at any time, except only when its mains, pumping machinery, and power service connection are in good working order, and the supply of water is sufficient for the usual demand of its consumers.

(1993 Code, § 15-203)

§ 15-204 SERVICE CONNECTIONS REQUIRED.

(a) The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purpose, situated within the city abutting on any street, alley, or right-of-way in which there is now located or may in the future be located near public water mains, is hereby required at his or her own expense to make connection to such public water main.

(b) Before any connection is made to the city's water system an application must be made in writing to the City Clerk by the owner of the premises, or his or her authorized representative, for a permit to make such connection.

(1993 Code, § 15-204)

§ 15-205 APPLICATION FOR SERVICE.

(a) Any person, firm, or corporation desiring a connection with the municipal water system shall apply in writing to the City Clerk, on a form furnished by the city for that purpose, for a permit to make the connection.

(b) The application shall:

- (1) Contain an exact description including street address of the property to be served;
- (2) State the size of tap required;
- (3) State the size and kind of service pipe to be used;

(4) State the full name of the owner of the premises to be served;

(5) State the purpose in which the water is to be used;

(6) State any other pertinent information required by the City Clerk; and

(7) Be signed by the owner or occupant of the premises to be served, or his or her authorized agent.

(c) Each application for a connection permit shall be accompanied by payment of fees and/or costs specified in § 15-207.
(1993 Code, § 15-205)

§ 15-206 CITY TO MAKE CONNECTIONS.

All taps shall be given, street excavations made, corporation cocks inserted, pipes installed from main to curb, and the curb cock installed in a meter box to which the service pipe is to be connected only by city employees.
(1993 Code, § 15-206)

§ 15-207 CONNECTION FEES.

The fees for connection to the city waterworks system shall be as follows:

(a) For connecting water main with three-fourths inch tap, three-fourths inch service line and installing three-fourths inch meter: the actual cost of the connection including labor, materials and tax as applicable; and

(b) For connecting water main with larger than a three-fourths inch tap, service line or meter: the actual cost of the connection including labor, materials and tax as applicable.
(1993 Code, § 15-207)

§ 15-208 CURB COCKS.

(a) There shall be a curb cock in every service line attached to the city main, the same to be placed within the meter box.

(b) Curb cocks shall be supplied with strong and suitable "T" handles.
(1993 Code, § 15-208)

§ 15-209 CHECK VALVES.

(a) Check valves are required on all connections to steam boilers or on any other connection deemed necessary by the Water Superintendent.

(b) Safety and relief valves shall be placed on all boilers or other steam apparatus connected with the water system where the steam pressure may be raised in excess of 40 pounds per square inch. (1993 Code, § 15-209)

§ 15-210 UNAUTHORIZED SERVICE.

It shall be unlawful for any person, firm, or corporation, other than duly authorized city officials or employees, to turn water on or off at the water meter or curb cock shut off, with a key or in any other manner, without first obtaining written permission from the Mayor or the governing body. (1993 Code, § 15-210)

§ 15-211 METERS.

(a) All water furnished to customers shall be metered.

(b) Meters shall be located between the sidewalk or property line and curbing when the main is in the street and on private property within three feet of the alley line when the main is in the alley. In the business district the meters may be installed in the basement at a location specified by the city.

(c) The city's responsibility stops at the property line. (1993 Code, § 15-211)

§ 15-212 SAME; TESTING.

Meters shall be tested before being set and at any other time thereafter when they appear to be measuring incorrectly. If a test is requested by the customer and the meter is found to be accurate within 2%, the meter will be deemed correct and a charge of \$10 will be made to the customer. (1993 Code, § 15-212)

§ 15-213 TAMPERING WITH METER.

(a) It shall be unlawful for any person to break the seal of any meter, to alter the register or mechanism of any meter, or to make any outlet or connection in any manner so that water supplied by the city may be used or wasted without being metered.

(b) It shall be unlawful for any person, except an authorized employee of the Water Department to turn any curb cock on or off. (1993 Code, § 15-213)

§ 15-214 LEAKS PROHIBITED; PENALTY.

(a) No allowances shall be made for water used or lost through leaks, carelessness, and neglect or otherwise after the same has passed through the meter.

(b) However, every customer shall have the right to appeal to the city a water bill or meter reading that he or she considers excessive.
(1993 Code, § 15-214)

§ 15-215 DISCONNECTION, RECONNECTION CHARGE.

Whenever the city receives a request from a customer for termination of water service, a disconnection charge of \$25 shall be added to the customer’s final bill. Any service disconnected for nonpayment of a delinquent bill shall be charged the disconnection charge of \$25. Service shall be reconnected only upon payment of the delinquent bill including the disconnection charge, interest and penalties thereon, and a reconnection charge of \$25.
(1993 Code, § 15-215)

§ 15-216 [RESERVED].

§ 15-217 INTERRUPT SERVICE.

The city reserves the right to interrupt water service for the purpose of making repairs or extensions to water lines or equipment.
(1993 Code, § 15-217)

§ 15-218 PROHIBITED ACTS.

It shall be a violation of this article for any unauthorized person to:

(a) Perform any work upon the pipes or appurtenances of the city’s waterworks system beyond a private property line unless such person is employed by the city;

(b) Make any connections with any extension of the supply pipes of any consumer without written permission to do so having been first obtained from the governing body; and

(c) Remove, handle, or otherwise molest or disturb any meter, meter lid, cutoff, or any other appurtenances to the water system of the city.
(1993 Code, § 15-218)

§ 15-219 WASTING WATER.

(a) Water users shall prevent unnecessary waste of water and shall keep sprinklers, hydrants, faucets, and all apparatus, including the service line leading from the property to the meter, in good condition at their expense. Wasting water may include but is not limited to:

(1) Permitting water to escape down a gutter, ditch, or other surface drain;

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- (2) Failing to repair an irrigation system's malfunction; or
- (3) Failing to repair a controllable water leak due to defective plumbing.

(b) It shall be a violation of this article and unlawful for any owner, occupant, or manager of real property served by the city water utility to waste water or to permit the wilful waste of water to occur.

(c) In the event of a violation of this section, the Superintendent of Water, or such other person as may be designated by the city, shall give written notice of the violation and opportunity for hearing in accordance with § 15-608.

(d) The penalties for violating this section shall be the same as those set forth in § 15-608. (1993 Code, § 15-219)

§ 15-220 RIGHT OF ACCESS.

Authorized employees of the city may enter upon any premises at reasonable hours for the purpose of reading the meter or servicing or inspecting meters or water lines. (1993 Code, § 15-220)

§ 15-221 RATES.

The rates per month for the use of water in the city shall be as follows:

(a) The first 2,000 gallons or fractional part thereof, per month, shall be the sum of \$24.50; and

(b) One dollar and seventy-five cents per 1,000 gallons over 2,000 gallons shall be charged. (1993 Code, § 15-221) (Ord. 634, passed 12-17-2012)

§ 15-221A BULK WATER RATES.

In the event an individual or entity desires to purchase bulk water from the city by the tank or truckload, the minimum charge shall be \$10 per 1,000 gallons, plus any applicable tax. (Ord. 657, passed 9-26-2016)

§ 15-222 PAYMENT OF BILLS.

(a) All meters shall be read as nearly as practicable on the fifteenth day of the month and bills shall be rendered by the first day of the following month. All bills shall be payable on or before the tenth day of the month rendered; and, if any person shall fail to pay his, her, or its water bill on or before the tenth of the month, a penalty of 10% of the amount of the bill shall be added and collected. If any person shall fail to pay his, her, or its water bill on or before the twentieth day of the month, service shall be discontinued and water shall be shut off from the premises until all unpaid water bills, penalties, and an additional penalty of \$15 shall have been paid.

(b) The Superintendent of Utilities shall have authority to make corrections or refunds for overpayment of improper water bills due to errors in the Water Department, but shall have no authority to remit or diminish bills for any other reason.

(1993 Code, § 15-222) (Ord. 230, passed - -)

§ 15-223 DELINQUENT ACCOUNTS; NOTICE; HEARING; FINDING; LIABILITY.

Water service shall be terminated for nonpayment of service fees or charges as provided in §§ 15-102 through 15-104.

(1993 Code, § 15-223)

§ 15-224 USE DURING FIRE.

No person owning or occupying premises connected to the municipal water system shall use or allow to be used during a fire any water from the water system, except for the purpose of extinguishing the fire. Upon the sounding of a fire alarm, it shall be the duty of every such person to see that all water services are tightly closed and that no water is used except in extraordinary cases of emergency during the fire.

(1993 Code, § 15-224)

§ 15-225 CROSS-CONNECTIONS.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AIR GAP SEPARATION. The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the overflow level rim of the receptacle, and shall be at least double the diameter of the supply pipe measured vertically above the flood level rim of the vessel, but in no case less than one inch.

APPROVED TESTER. A person qualified to make inspections; to test and repair backflow prevention/cross-connection control devices; and who is approved by the city.

AUTHORIZED REPRESENTATIVE. Any person designated by the city to administer this cross-connection control regulation.

AUXILIARY WATER SUPPLY. Any water source or system, other than the city, that may be available in the building or premises. This does not include other KDHE permitted public water supply systems.

BACKFLOW. The flow other than the intended direction of flow, of any foreign liquids, gases, used water, or substances into the distribution system of a public water supply system.

BACKFLOW PREVENTION DEVICE. Any device, method, or type of construction intended to prevent backflow into the public water supply system.

CONSUMER. Any individual, firm, partnership, corporation, or agency or his, her, or their authorized agent receiving water from the city.

CONSUMER'S WATER SYSTEM. All service pipes, all distribution piping and all appurtenances beyond the service meter of the public water system.

CONTAMINATION. An introduction of any sewage, process fluids, chemicals, wastes, or any other substance that would be objectionable. **CONTAMINATION** may be a threat to life or health, or may cause an esthetic deterioration, color, taste, or odor.

CROSS-CONNECTION. Any physical connection or arrangement between two otherwise separate piping systems; one of which contains potable water of the public water supply system, and the second, water of unknown or questionable safety, or steam, gases, chemicals, or substances whereby there may be backflow from the second system to the public water supply system. No physical **CROSS-CONNECTION** shall be permitted between a public water supply system and an auxiliary water supply system.

DEGREE OF HAZARD. An evaluation of the potential risk to public health and the adverse effect of the hazard upon anyone using the water.

HEALTH HAZARD. Any condition, device, or practice in the public water supply system that could create or may create a danger to the health and well-being of anyone using the water or allow contamination of the water.

PUBLIC WATER SUPPLY SYSTEM. The public water system and the consumers' water systems.

PUBLIC WATER SYSTEM. The water supply source, distribution system, and appurtenances to the service meter operated as a public utility that supplies potable water to the consumers' water systems.

SERVICE CONNECTION. The terminal end of the service line from the public water system. If a meter is installed at the end of the service, then the **SERVICE CONNECTION** means the downstream end of the meter.

(b) *Cross-connection control general policy.*

(1) *Purpose.* The purpose of this policy is:

(A) To protect the public water supply system from contamination;

(B) To promote the elimination, containment, isolation, or control of cross-connection between the public water supply system and non-potable water systems, plumbing fixtures, and industrial process systems or other systems which introduce or may introduce contaminants into the public water system or the consumer's water system; and

(C) To provide for the maintenance of a continuing program of cross-connection control which will prevent the contamination of the public water supply system.

(2) *Application.* This regulation shall apply to all consumers' water systems. The city may also require cross-connection control devices at the service connections of other KDHE-permitted public water supply systems served by the city.

(3) *Intent.* This policy will be reasonably interpreted by the city. It is the intent of the city to recognize the varying degrees of hazard and to apply the principle that the degree of protection shall be commensurate with the degree of hazard.

(4) *Due notice.* If, in the judgment of the city or its authorized representative, cross-connection protection is required through either piping modification or installation of an approved backflow prevention device, due notice shall be given to the consumer. The consumers shall immediately comply by providing the required protection at their personal expense. Failure or refusal or inability on the part of the consumer to provide such protection shall constitute grounds for the discontinuation of water service to the premises until such protection has been provided.

(c) *Cross-connections prohibited.*

(1) No water service connection shall be installed or maintained to any premises where actual or potential cross-connections to the public water supply system may exist unless such actual or potential cross-connections are abated or controlled to the satisfaction of the city or its authorized representative.

(2) No connection shall be installed or maintained whereby an auxiliary water supply may enter a public water supply system.

(d) *Survey and investigations.*

(1) The consumer's premises shall be open at all reasonable times to the city or its authorized representative, for the conduction of surveys and investigations of water use practices within the consumer's premises to determine whether there are actual or potential cross-connections in the consumer's water system.

(2) On request by the city or its authorized representative, the consumer shall furnish requested information on water use practices within his or her premises and in the consumer's water system.

(3) On request by the city or its authorized representative, the consumer shall conduct periodic surveys of water use practices on the premises of the consumer's water system to determine whether there are actual or potential cross-connections. The consumer shall provide the survey results to the city or its authorized representative.

(e) *Where protection is required.*

(1) An approved backflow prevention device shall be installed on each service line to a consumer's water system serving premises where, in the judgment of the city or its authorized representative or the KDHE, actual or potential cross-connections exist. The type and degree of protection required shall be commensurate with the degree of hazard and/or type of contamination that may enter the public water supply system.

(2) An approved air gap separation or reduced pressure principle backflow prevention device shall be installed at the service connection or within any premises where, in the judgment of the city or its authorized representative or the KDHE, the nature and extent of activities on the premises, or the materials used in connection with the activities, or materials stored on the premises, would present a health hazard or contamination of the public water supply system from a cross-connection. This includes, but is not limited to, the following situations:

(A) Premises having an auxiliary water supply, unless the quality of the auxiliary supply is acceptable to the city or its authorized representative and the KDHE;

(B) Premises having internal plumbing arrangements, which make it impractical to ascertain whether or not, cross-connections exist;

(C) Premises where entry is restricted so that inspections for cross-connections cannot be made with sufficient frequency or at sufficiently short notice to assure the cross-connections do not exist;

(D) Premises having a repeated history of cross-connections being established or re-established;

(E) Premises, which due to the nature of the enterprise therein, are subject to recurring modification or expansion;

(F) Premises on which any substance is handled under pressure so as to permit entry into the public water supply system, or where a cross-connection could reasonably be expected to occur. This shall include the handling of process waters and cooling waters; and

(G) Premises where toxic or hazardous materials are handled.

(3) The following types of facilities fall into one or more of the categories or premises where an approved air gap separation or reduced pressure principle backflow prevention device may be required by the city or its authorized representative or the KDHE to protect the public water supply and must be installed at these facilities unless all hazardous or potentially hazardous conditions have been eliminated or corrected by other methods to the satisfaction of the city or its authorized representative and the KDHE:

(A) Agricultural chemical facilities;

- (B) Auxiliary water systems, wells;
- (C) Boilers;
- (D) Bulk water loading facilities;
- (E) Car washing facilities;
- (F) Chemical manufacturing, processing, compounding, or treatment plants;
- (G) Chill water systems;
- (H) Cooling towers;
- (I) Feedlots;
- (J) Fire protection systems;
- (K) Hazardous waste storage and disposal sites;
- (L) Hospitals, mortuaries, clinics, or others as discovered by sanitary surveys;
- (M) Irrigation and sprinkler systems;
- (N) Laundries and dry cleaning;
- (O) Meat processing facilities;
- (P) Metal manufacturing, cleaning, processing, and fabricating plants;
- (Q) Oil and gas production, refining, storage, or transmission properties;
- (R) Plating plants;
- (S) Power plants;
- (T) Research and analytical laboratories;
- (U) Sewage and storm drainage facilities, pumping stations and treatment plants; and
- (V) Veterinary clinics.

(f) *Lawn irrigation systems.*

(1) An approved pressure vacuum breaker or reduced pressure principal backflow preventer shall be installed on all new lawn irrigation systems.

(2) All lawn sprinkler systems that have no backflow protection shall be so protected within 90 days of the enactment of this section or prior to usage, whichever is later.

(3) All lawn sprinkler systems with improper backflow protection shall be retrofitted in accordance with division (f)(1) above within 90 days from the enactment of this section or prior to usage, whichever is later.

(g) *Backflow prevention devices.* Any backflow prevention device required by this regulation shall be of a model or construction approved by the city or its authorized representative and the KDHE.

(1) Air gap separation to be approved shall be at least twice the diameter of the supply pipe, measured vertically above the top rim of the vessel, but in no case less than one inch.

(2) Double check valve assemblies or reduced pressure principle backflow prevention devices shall appear on the current list of approved backflow prevention devices established by the KDHE, unless the device was installed at the time this regulation was passed and complies with required inspection and maintenance.

(h) *Installation.*

(1) Backflow prevention devices required by this policy shall be installed at a location and in a manner approved by the city or its authorized agent. All devices shall be installed at the expense of the water consumer, unless the city or its authorized representative agrees otherwise.

(2) Backflow prevention devices installed at the service connection shall be located on the consumer's side of the water meter, as close to the meter as is reasonably practical, and prior to any other connection.

(3) Backflow prevention devices shall be conveniently accessible for maintenance and testing, protected from freezing, and where no part of the device will be submerged or subject to flooding by any fluid. All devices shall be installed according to manufacturers' recommendations.

(i) *Inspection and maintenance.*

(1) The consumer is required by this regulation to inspect, test, and overhaul backflow prevention devices in accordance with the following schedule or more often as determined by the city or its authorized representative.

(A) Air gap separations shall be inspected at the time of installation and at least monthly.

(B) Double check valve assemblies shall be inspected and tested for tightness at the time of installation and at least every 12 months thereafter. They shall be dismantled, inspected internally, cleaned, and repaired whenever needed and at least every 30 months.

(C) Reduced pressure principle backflow prevention devices shall be inspected and tested for tightness at the time of installation and at least every 12 months thereafter. They shall be dismantled, inspected internally, cleaned, and repaired whenever needed and at least every five years.

(2) Inspections, tests, and overhauls of backflow prevention devices shall be made at the expense of the consumer and shall be performed by an approved tester.

(3) Whenever backflow prevention devices required by this policy are found to be defective, they shall be repaired or replaced without delay at the expense of the consumer.

(4) The consumer must maintain a complete record of each backflow prevention device from purchase to retirement. This shall include a comprehensive listing that includes a record of all tests, inspections, and repairs. All records of inspections, tests, repairs, and overhauls shall be provided within 30 days to the city or its authorized representative.

(5) All backflow prevention devices shall have a tag showing the date of the last inspection, test, or overhaul or other maintenance.

(6) Backflow prevention devices shall not be bypassed, made inoperative, removed, or otherwise made ineffective without specific authorization by the city or its authorized representative.

(j) *Violation and penalties.*

(1) The city or its authorized representative shall deny or discontinue the water service to any premises or any consumer wherein any backflow prevention device required by this policy is not installed, tested, and maintained in a manner acceptable to the city or its authorized representative, or if it is found that the backflow prevention device has been removed or bypassed, or if an unprotected cross-connection exists.

(2) Water service to such premises shall not be restored until the consumer is in compliance with this cross-connection regulation to the satisfaction of the city or its authorized representative.

(K) *Devices.* The following devices are recognized for cross-connection control and backflow prevention by the State Department of Health and Environment.

(1) *Air gap.* Gap must be two pipe diameters (in no instance less than one inch). Must be inspected annually. Satisfactory for any material. Whenever practical, this is the control method of choice.

(2) *Reduced pressure principle backflow preventer.* Contains two specifically designed, soft seated, independently acting check valves with a reduced pressure zone (with relief valve) between the

two checks. Shut off valves before and after the device. Satisfactory for most toxic materials. Significant pressure loss (ten psi or more). Must be tested and inspected annually. Repaired as necessary.

(3) *Double check valve assembly*. Contains two soft-seated independently acting check valves in series. Shut off valves before and after device. Adequate for non-toxic applications only. Minor pressure loss. Must be inspected and tested annually. Repaired as necessary.

(4) *Pressure vacuum breaker*. Must be installed a minimum of 12 inches above highest point of usage. No backpressure, only back siphonage. Can operate under constant pressure. Shut off valve can be located beyond the vacuum breaker. Must be inspected and tested annually. Repaired as necessary. Must be installed a minimum of six inches above highest point of usage. No backpressure, only back siphonage. Not for use under constant pressure. Shut off valves must be located ahead of vacuum breaker. Must be inspected annually and repaired as necessary.

(5) *Cross-connection control devices*. Cross-connection control devices must be inspected, tested, and repaired by a trained technician. All devices shall be installed such that they will be accessible for regular inspection and testing.

(1993 Code, § 15-225) (Ord. 247, passed - -; Ord. 646, passed 11-24-2015)

§ 15-226 SAME; PROTECTIVE BACKFLOW DEVICES REQUIRED.

Approved devices to protect against backflow or backsiphonage shall be installed at all fixtures and equipment where backflow and/or backsiphonage may occur and where there is a hazard to the potable water supply in that polluted water or other contaminating materials may enter into the public water supply. Any situation in which a heavy withdrawal of water, such as a sudden break in the main or water being used from a fire hydrant, may cause a negative pressure to develop which could lead to backsiphonage of polluted water into the system shall be improper and must be protected by approved backflow preventive valves and systems as determined by the Superintendent.

(1993 Code, § 15-226) (Ord. 247, passed - -)

§ 15-227 SAME; INSPECTION.

The City Utility Superintendent or other designee of the governing body shall have the right of entry into any building or premises in the city as frequently as necessary, in his or her judgment, to ensure that plumbing has been installed in accordance with the laws of the city so as to prevent the possibility of pollution of the city's water supply.

(1993 Code, § 15-227)

§ 15-228 SAME; PROTECTION FROM CONTAMINANTS.

Pursuant to the city's constitutional home rule authority and K.S.A. 65-163a, the city by its utility Superintendent may refuse to deliver water through pipes and mains to any premises where a condition exists which might lead to the contamination of the public water supply system and it may continue to refuse the delivery of water to the premises until that condition is remedied. In addition, the City Utility Superintendent may terminate water service to any property where the cross-connections or

backsiphonage condition creates, in the judgment of the Superintendent, an emergency danger of contamination to the public water supply.

(1993 Code, § 15-228) (Ord. 247, passed - -)

ARTICLE 3: ELECTRICITY

[Reserved]

ARTICLE 4: SEWERS

Section

- 15-401 Definitions
- 15-402 Use of public and private sewers and drains
- 15-403 Private waste disposal
- 15-404 Installation, connection of building sewers and drains
- 15-405 Discharge criteria
- 15-406 Vandalism
- 15-407 Inspection
- 15-408 Industrial cost recovery
- 15-409 User charges
- 15-410 Penalties and violations
- 15-411 Bills
- 15-412 Delinquent accounts
- 15-413 Sewer service charge

§ 15-401 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ASTM. The American Society of Testing Materials or publications thereof.

B.O.D. (BIOCHEMICAL OXYGEN DEMAND). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C, expressed in milligrams per liter.

BUILDING DRAIN. The 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 conveys it to the building sewer beginning two feet outside the building wall.

BUILDING SEWER. The extension from the building drain to the public wastewater or other place of disposal.

CITY. The City of Cunningham, Kansas.

COMBINED SEWER. A sewer receiving both surface runoff and sewage.

GARBAGE. Solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

GOVERNING BODY. The Mayor and City Council of the City of Cunningham, Kansas.

HEALTH OFFICER. A person having public health responsibility by the state and/or by the county.

INDUSTRIAL COST RECOVERY (ICR). Recovery by the governing body from the industrial users of the treatment works and collection system of the grant amount allocable to the treatment and collection of wastes from such users.

INDUSTRIAL COST RECOVERY PERIOD. The industrial cost recovery period shall be equal to 20 years or to the period to which the grant amount allocable to the treatment of wastes from industrial users is recovered from the industrial users of such wastes.

INDUSTRIAL USER.

(1) (A) Any nongovernmental, nonresidential user of a publicly-owned treatment works which discharges more than the equivalent of 25,000 gallons per day (gpd) of sanitary wastes and which is identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented under one of the following divisions:

- (i) Division A, Agriculture, Forestry and Fishing;
- (ii) Division B, Mining;
- (iii) Division C, Manufacturing; and
- (iv) Division D, Transporting, Communications, Electric, Gas and Sanitary Services.

(B) In determining the amount of a user's discharge for purposes of ICR, domestic wastes or discharges from sanitary conveniences may be excluded.

(C) After applying the sanitary waste exclusion, dischargers in the above divisions that have a volume exceeding 25,000 gpd or the weight of biochemical oxygen demand (BOD, see division (B) above) equivalent to that found in 25,000 gpd of sanitary waste are considered industrial users. Sanitary wastes, for purposes of this calculation of equivalency, are wastes discharged from the average residential user in the service area without regard to considering the effect of ion caused by infiltration and/or inflow. The strength of the average residential waste discharged within the service area has been determined to be 200 milligrams per liter of BOD and 200 milligrams per liter of SS.

(2) Any nongovernmental user of a publicly-owned treatment works discharging wastewater to the treatment works which:

(A) Contains toxic pollutants or poisonous solids, liquids or gases in sufficient quantity either singly or by interaction with the other wastes, to contaminate the sludge of any municipal systems or to injure or to interfere with any wastewater treatment process;

(B) Constitutes a hazard to humans or animals;

(C) Creates a public nuisance; or

(D) Creates any hazard in or has an adverse effect on the waters receiving any discharge from the treatment works.

(3) All commercial users of an individual system constructed with grant assistance under § 201(h) of the Clean Water Act of 1977.

INDUSTRIAL WASTES. The liquids wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

MAY. The act referred to is permissive.

NATURAL OUTLET. Any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

NORMAL DOMESTIC WASTE. Normal wastewater for the city in which the average concentration of five-day BOD is established at two suspended solids is established at 200 mg/l; the average concentration of suspended solids is established at 250 mg/l.

PERSON. Any individual, firm, company, association, society, corporation, or group.

pH. The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

PROPERLY SHREDDED GARBAGE. The wastes from the preparation, cooking, and dispensing of food which have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (1.27 centimeters) in any dimension.

PUBLIC SEWER. A sewer in which all owners of abutting properties have equal rights and is controlled by public authority.

REPLACEMENT. Expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary to maintain the capacity and performance during the service life of the treatment works for which such works were designed and constructed.

SANITARY SEWER. A sewer which carries wastewater and to which storm, surface and ground water are not intentionally admitted.

SEWER. A pipe or conduit for carrying wastewater.

SHALL. The act referred to is mandatory.

SLUG. Any discharge of water, wastewater, or industrial waste which has a concentration of any given constituent or in which the quantity of flow for any period of duration longer than 15 minutes exceeds more than five times the average 24-hour concentration or flow quantities during normal operation.

STORM DRAIN (STORM SEWER). Any sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

SUPERINTENDENT. The Superintendent of sewage and water plants in the city and/or his or her authorized deputy, agent, or representative.

SUSPENDED SOLIDS. Solids that either float on the surface of, or are suspended in water, sewage, or other liquids and which are removable by laboratory filtering.

WATERCOURSE. A channel in which a flow of water occurs, either continually or intermittently.

UNIFORM PLUMBING CODE. The latest revision of the Uniform Plumbing Code published by the International Association of Plumbing and Mechanical Officials.

USEFUL LIFE. The estimated period during which a sewage treatment plant will be operated; for the city, the design life of 20 years shall be used.

WASTEWATER. A combination of water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters that may be present.

WASTEWATER COLLECTION SYSTEM. Each, and all, of the common lateral sewers, within a publicly-owned treatment system, which are primarily installed to receive wastewaters directly from facilities which convey wastewater from individual structures from private property, and which include service connection "Y" fittings designed for connection with those facilities. The facilities, which convey wastewater from individual structures or from private property to the public lateral sewer or its equivalent, are specifically excluded from the definition, with the exception of pumping units, and pressurized lines, for individual structures or groups of structures when such units are cost effective and are owned and maintained by the city.

WASTEWATER TREATMENT FACILITY. Any devices and systems used in the storage, treatment, recycling, and reclamation of municipal wastewater or industrial wastes of a liquid nature to implement § 201 of the Federal Pollution Control Act (33 U.S.C. §§ 1251 et seq.) as amended by the Federal Water Pollution Control Act Amendments of 1972 (Pub. Law No. 92-500) and Pub. Law No. 93-243, or necessary to recycle or reuse water at the most economical cost over the useful life of the works, including intercepting sewers, outfall sewers, wastewater collection systems, pumping, power, and other equipment and their appurtenances; extensions, improvement, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, providing site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal or residues resulting from such treatment; or any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal wastes, including storm runoff, or industrial waste, including waste in combined storm water and sanitary sewer system.

WPCF. The Water Pollution Control Federal or publications thereof.
(1993 Code, § 15-301) (Ord. 231, passed - -)

§ 15-402 USE OF PUBLIC AND PRIVATE SEWERS AND DRAINS.

(a) It shall be unlawful for any person to place, deposit, or permit to be deposited any human or animal excrement, garbage or other objectionable waste in any unsanitary manner on public or private property within the city or in any area under the jurisdiction of the city.
(1993 Code, § 15-302)

(b) It shall be unlawful to discharge any wastewater or other polluted waters into any natural outlet, except where suitable treatment has been provided in accordance with subsequent provisions of this article.
(1993 Code, § 15-303)

(c) Except as hereinafter provided, 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 wastewater.
(1993 Code, § 15-304)

(d) The owner(s) of all houses, buildings or properties used for human occupancy, employment, recreation, or their purposes, situated within the city and abutting 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 his or her expense, toilet facilities therein and to connect such facilities directly with the proper public wastewater collection system in accordance with the provisions of this article within 90 days after the official notice to do so; provided that, the public wastewater collection system is within 100 feet of the property line.
(1993 Code, § 15-305)

(e) No sewer connection will be permitted for areas outside the city limits until the developer or owner obtains approval from the governing body. Any sewer lines needed to connect with existing city sewer mains and laterals must conform to city and state specifications for same.

(1993 Code, § 15-306)

(Ord. 231, passed - -)

§ 15-403 PRIVATE WASTE DISPOSAL.

(a) Where a public sanitary sewer is not available under the provisions of § 15-401, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this article.

(b) Before commencement of construction of a private wastewater disposal system, the owner shall first obtain a written permit signed by the Superintendent. 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 Superintendent. A permit and inspection fee of \$25 shall be paid to the city at the time the application is filed.

(1993 Code, § 15-308)

(c) A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. He or she shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 96 hours of the receipt of notice by the Superintendent or his or her representative.

(1993 Code, § 15-309)

(d) The type, capacities, location, and layout of a private wastewater disposal system shall comply with all recommendations of the State Department of Health and Environment. When a public water supply is used, no permit shall be issued for any private wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less than 20,000 square feet. In the case of a private water supply, the minimum lot size will be 40,000 square feet. No septic tank or cesspool system shall be permitted to discharge to any natural outlet.

(1993 Code, § 15-310)

(e) At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in division (d) above, a direct connection shall be made to the public wastewater collection system in compliance with this article. Any septic tanks, cesspools, and similar private wastewater disposal facilities shall be cleaned and filled according to division (h) bellow.

(1993 Code, § 15-311)

(f) The owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the city.

(1993 Code, § 15-312)

(g) No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the Health Officer.
(1993 Code, § 15-313)

(h) When a public sewer becomes available, the building sewer shall be connected to the sewer within 60 days. The private wastewater disposal system shall be cleaned of sludge and filled with clean bank-run gravel, locally available chat, or soil.
(1993 Code, § 15-314)
(Ord. 231, passed - -)

§ 15-404 INSTALLATION, CONNECTION OF BUILDING SEWERS AND DRAINS.

(a) 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 Superintendent.
(1993 Code, § 15-315)

(b) There shall be one class of building sewer permit for residential and commercial service. The owner of his or her agent shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgement of the Superintendent. A permit and inspection fee of \$10 for a residential or commercial building sewer permit shall be paid to the City Clerk at the time the application is filed.
(1993 Code, § 15-316)

(c) All costs and expenses 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.
(1993 Code, § 15-317)

(d) A separate and independent building sewer shall be provided for every building (see § 15-402(d)); except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to 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 building sewer.
(1993 Code, § 15-318)

(e) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Superintendent, to meet all requirements of this article.
(1993 Code, § 15-319)

(f) The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating a backfilling the trench, installing jointing, and testing the building sewer, shall conform to the Uniform Plumbing Code as hereinafter modified.

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(1) Minimum internal pipeline for all building sewers shall be four inches.

(2) Building sewers shall be constructed of one of the following pipeline materials:

(A) Extra-strength vitrified clay pipeline and fittings conforming to ASTM C 700;

(B) Polyvinyl chloride (PVC) gravity sewer pipe and fittings. Type PSP or PSM conforming to ASTM Standards D 3033 or D 3034. All PVC sewer pipe shall be at least Schedule 40;

(C) Reinforced concrete pipe properly coated and not less than 36 inches in diameter conforming to ASTM C 76;

(D) ABS composite sewer pipe conforming to ASTM D 2680;

(E) Reinforced plastic mortar pipe conforming to ASTM D 3262;

(F) Asbestos-cement non-pressure sewer pipe conforming to ASTM C 428; and

(G) Cast or ductile iron pipe with a minimum pressure rating of 150 pounds per square inch conforming to Federal Specification WW-P241b, or ANSI A21.51, A21.6, or A21.8, except that iron used in the manufacture of the pipe shall have minimum design strength value, in pounds per square inch, of 21,000 for bursting strength and 45,000 for modules of rupture.

(1993 Code, § 15-320)

(g) 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 wastewater collection system, the wastewater carried by such a building drain shall be lifted by an approved means and discharged to the building sewer.

(1993 Code, § 15-321)

(h) No person shall make connection of roof downspouts, exterior or interior foundation drains, areaway drains, or other resources of surface runoff or ground water to a building sewer or building drain which in turn is connected directly or indirectly to a public wastewater collection system.

(1993 Code, § 15-322)

(i) The connection of the building sewer into the public wastewater collection system shall conform to the requirements of the Uniform Plumbing Code or other applicable rules and regulations of the city. All such connections shall be made gas-tight and water-tight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

(1993 Code, § 15-323)

(j) The application for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under

the supervision of the Superintendent, or his or her representative, within 96 hours of the receipt of the notice.

(1993 Code, § 15-324)

(k) All excavations for building sewer installations shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(1993 Code, § 15-325)

(Ord. 231, passed - -)

§ 15-405 DISCHARGE CRITERIA.

(a) No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

(1993 Code, § 15-326)

(b) Storm water and all other unpolluted drainage shall be discharged to sewers specifically designated as storm sewers by the Superintendent, to another storm sewer or natural outlet. Such flows are also subject to federal and state regulations.

(1993 Code, § 15-327)

(c) No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(1) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas;

(2) Any waters or wastes containing toxic or poisonous solids, liquids, or gases to sufficient quantity, either singly or by interaction with other wastes to:

(A) Injure or interfere with any wastewater treatment process;

(B) Constitute a hazard to humans or animals;

(C) Create a public nuisance; or

(D) Create any hazard in the receiving waters of the wastewater treatment plant.

(3) Any waters or wastes having a pH lower than 6.0 or higher than 9.0, or having any other property capable of causing damage or hazard to structures, equipment, and personnel of the treatment works;

(4) Solid or viscous substances in quantities or of such size capable of causing obstructions to the flow in sewers, or other interference with the proper operation of the treatment works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
(1993 Code, § 15-328)

(d) No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the superintendent that such wastes can harm either the sewers, wastewater treatment process, or equipment, have an adverse effect in the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his or her opinion as to the acceptability of these wastes, the Superintendent 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 wastewater treatment process, capacity of the wastewater treatment plant, degree of treatability of wastes in the wastewater treatment plant, and other pertinent factors. The substances prohibited are:

(1) Any liquid or vapor having a temperature higher than 120°F (49°C);

(2) Any water or waste containing fats, wax, grease, or oils whether emulsified or not, in excess of 100 milligrams per liter or containing substances which may solidify or become viscous at temperatures between 32 and 120°F (9° and 49°C);

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

(4) Any waters or wastes containing strong acid pickling wastes, or concentrated plating solutions whether neutralized or not;

(5) 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 wastewater at the wastewater treatment works exceeds the limits established by the Superintendent of such materials, or pretreatment requirements established by state, federal, or other public agencies of jurisdiction for such discharge;

(6) Any waters or wastes containing phenols or other taste- or odor-producing substances, in such concentrations exceeding limits which may be established by the superintendent as necessary, after treatment of the composite wastewater to meet the requirements of the state, federal, or other public agencies of jurisdiction for such discharge;

(7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations;

(8) Materials which exert or cause:

(A) 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 and solidum sulfate);

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

(C) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the wastewater treatment works; and

(D) Unusual volume of flow or concentration of wastes constituting slugs as defined herein.

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

(10) Any waters or wastes (1) having a five-day BOD greater than 300 milligrams per liter, or (2) containing more than 350 milligrams per liter of suspended solids, or (3) having an average daily flow greater than two percent of the average wastewater flow of the city, shall be subject to the review of the superintendent, the owner shall provide, at his or her expense, such preliminary treatment as may be necessary to (1) reduce the BOD to 300 milligrams per liter, or (2) reduce the suspended solids to 350 milligrams per liter, (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 superintendent and no construction of such facilities shall be commenced until the approvals are obtained in writing.

(1993 Code, § 15-329)

(e) If any waters or wastes are, or are proposed to be, discharged to the public wastewater collection system, which contain the substances or possess the characteristics enumerated in division (d) above, the Superintendent may:

(1) Reject the wastes;

(2) Require pretreatment to an acceptable condition for discharge to the public wastewater collection 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 user charges.

(5) The Superintendent 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 superintendent, and subject to the requirements of all applicable codes, ordinances, and laws.
(1993 Code, § 15-330)

(f) Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent, they 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 type and capacity approved by the Superintendent and shall be located as to be readily and easily accessible for cleaning and inspection.
(1993 Code, § 15-331)

(g) Where preliminary treatment or flow-equalizing facilities are provided for any water wastes, they shall be maintained continuously in satisfactory and effective operation by the owner, at his or her expense.
(1993 Code, § 15-332)

(h) When required by the Superintendent, 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 Superintendent. The manhole shall be installed by the owner at his or her expense, and shall be maintained by him or her so as to be safe and accessible at all times.
(1993 Code, § 15-333)

(i) (1) All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this article shall be performed by a laboratory approved by the superintendent and 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 the 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 the constituents upon the treatment works and to determine the existence of hazards to life, limb, and property.

(2) The particular analyses involved will determine whether a 24-hour composite of all building sewers of a premise 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 building sewers, whereas pHs and heavy metals are determined from periodic grab samples.
(1993 Code, § 15-334)

(j) Any pretreatment standards, as established by state, federal, or other public agencies of jurisdiction for such discharge, will be used as the minimum requirements by the superintendent as applied to this article.

(1993 Code, § 15-335)

(Ord. 231, passed - -)

§ 15-406 VANDALISM.

No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the municipal wastewater collection system and treatment facility. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

(1993 Code, § 15-336) (Ord. 231, passed - -)

§ 15-407 INSPECTION.

(a) The Superintendent of the city bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this article. The superintendent shall have no authority to inquire into any processes, including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond the point having bearing on the kind and source of discharge to the sewers or waterways or facilities of waste treatment. Any report, record, or information taken for purposes of administering this article shall remain confidential to the superintendent, except that such report, record, or information may be disclosed to other officials, employees, or authorized representatives of the city and except for such effluent information as may be required by federal and state regulations.

(1993 Code, § 15-337)

(b) While performing the necessary work on private properties referred to in division (a) above, the superintendent shall observe all safety rules applicable to the premises established by the company. The company shall be held harmless for injury or death to the city employees. 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 safety conditions required by § 15-405(h).

(1993 Code, § 15-338)

(c) The Superintendent of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the wastewater collection system lying within the easement. All entry and subsequent work, if any, on the easement shall be in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

(1993 Code, § 15-339)

(Ord. 231, passed - -)

§ 15-408 INDUSTRIAL COST RECOVERY.

(a) Any industrial user requesting sewer service after 1-1-1980 shall establish or cause to be established the quality, quantity, and peak flow rate characteristics of the user's wastewater and shall present his information to the Superintendent in such a manner that the Superintendent shall determine if an industrial cost recovery (ICR) rate shall be established. The cost of establishing these characteristics shall be paid for by the user.

(1993 Code, § 15-340)

(b) Under the ICR program, any industrial user's share shall be based on all factors which significantly influence the cost of the wastewater collection and treatment system, such as quality, volume, and delivery flow rate characteristics which shall be considered and included to insure a proportional distribution of the grant assistance allocable to the industrial user's use or capacity firmly committed for its use and shall not include an interest component. As a minimum, an industrial user's share shall be proportional to its flow in relation to the treatment works flow.

(1993 Code, § 15-341)

(c) Whenever current standards, regulations, or guidelines are altered by any governmental agency in such a manner as to cause an expansion and/or upgrading of the treatment works which are not covered by user's fees, and require federal grant monies, each industrial contributor's ICR fee will be adjusted in accordance with the current regulations.

(1993 Code, § 15-342)

(Ord. 231, passed - -)

§ 15-409 USER CHARGES.

(a) The service charge to be paid by all contributors of the city Municipal Wastewater Collection and Treatment System is established by § 15-413.

(1993 Code, § 15-343)

(b) In the event a lot, parcel of land, premises, or facility discharging wastewater, industrial process waste, water, or other liquids, either directly or indirectly into the city's wastewater collection and treatment system or which eventually enters the system, is supplied with water from any source other than from the city's municipal water system, then the sewer use charge will be estimated at the average bill for all users in the city, unless the owner of the lot, parcel of land, premises or facility installs, and maintains at his or her expense, a water meter approved by the city's Water Department. This meter(s) shall serve as a control for the establishment of the sewer user charge and shall be accessible to the city's meter readers.

(1993 Code, § 15-344)

(c) Where more than one water meter is installed for service to one industry or commercial business located at a single site or adjoining sites, only one minimum monthly charge shall apply to the total

average winter water use from all meters which supply service to one industry or commercial business located at a single site or adjoining sites.

(1993 Code, § 15-345)

(d) Where it can be established that a contributor has had a water leak during the establishment if the contributor's average winter water use, the contributor's charge may be adjusted by the cashier of the utility office by using the previous year's average winter water use or portion thereof.

(1993 Code, § 15-346)

(e) If wastewater service is commenced or terminated during a period for which bills are rendered, billing shall be prorated on a daily basis.

(1993 Code, § 15-347)

(f) The city shall annually review user charges and revise them, if necessary, to reflect, as a minimum, the following conditions:

(1) User charges shall maintain a proportional distribution of operation, maintenance, and replacement (OM&R) costs among all users and/or user classes;

(2) User charges shall generate adequate revenues to pay the costs of OM&R.

(3) All end of year balances collected through user charges to pay for OM&R must be carried over to the next year and user charges adjusted accordingly.

(1993 Code, § 15-348)

(g) Billings for wastewater service shall be rendered at the same time and on the same bills issued for water service, but shall be shown as a separate item from the charge for water.

(1993 Code, § 15-349)

(h) Whenever current standards or guidelines are altered by any governmental agency the user charges, if any, must be adjusted to reflect the costs of expanding and/or upgrading the treatment works required by these revisions.

(1993 Code, § 15-350)

(Ord. 231, passed - -)

§ 15-410 PENALTIES AND VIOLATIONS.

(a) Any person found to be violating any provision of this article, except § 15-409(d) (vandalism), 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. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(1993 Code, § 15-351)

(b) Any person who shall continue any violation beyond the time limit provided for in section 15-451, shall be guilty of a misdemeanor, and on conviction thereof, shall be fined in an amount not exceeding \$100 for each violation, or a jail sentence not exceeding 30 days, or by both such fine and incarceration. If the conviction is for a violation committed after the first conviction, punishment shall be a fine not exceeding \$300 per day of such violation, together with imprisonment of not more than 90 days as may be assessed by the court for each day of violation. Each day in which any such violation shall continue shall be deemed a separate offense.

(1993 Code, § 15-352)

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

(1993 Code, § 15-353)

(Ord. 231, passed - -)

§ 15-411 BILLS.

(a) Bills shall be rendered monthly as provided in § 15-222 and shall be collected as a combined utility bill.

(b) Any person at the time of beginning or terminating service who receives service for a period of less than 17 consecutive days shall be billed at no less than one-half of the regular minimum monthly rate. For service of 17 consecutive days or more, the charge shall be not less than full regular minimum monthly rate.

(1993 Code, § 15-354)

§ 15-412 DELINQUENT ACCOUNTS.

(a) In the event any person, except the United States and the state of Kansas or any political subdivision thereof, shall fail to pay the user charges when due, water service shall be terminated as provided in §§ 15-102 through 15-104.

(b) In lieu of terminating water service, the governing body may elect to assess such delinquent charges as a lien upon the real estate serviced as provided in § 15-106, and the City Clerk shall certify such delinquent charges to the County Clerk to be placed on the tax roll and collected in like manner as other taxes are collected.

(1993 Code, § 15-355)

§ 15-413 SEWER SERVICE CHARGE.

The monthly charge for sewer service shall be as follows.

(a) Each user shall pay for the services provided by the city based on his or her use of the treatment works as determined by water meter(s) acceptable to the city.

(b) For residential contributors, monthly user charges will be based on the average monthly water usage during the months of January, February, and March of each year. If a residential contributor has not established a January, February, and March average, his or her monthly user charge shall be the median charge of all other residential contributors. For commercial and industrial contributors, user charges shall be based on water metered during the current month. If a commercial or industrial contributor has a consumptive use of water, or in some manner uses water which is not returned to the wastewater collection system, the user charge for that contributor may be based on a wastewater meter(s) or separate water meter(s) installed and maintained at the contributor's expense, and in a manner acceptable to the city. The meter(s) shall be open and available for inspection and reading by an authorized city representative.

(c) The minimum charge per month shall be \$15. In addition, each contributor shall pay a user charge rate of \$1.65 per 1,000 gallons of water as determined in § 15-411.

(d) Any user which discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge from the city's treatment works, or any user which discharges any substance which singly or by interaction with other substances causes identifiable increases in the cost of operation, maintenance, or replacement of the treatment works, shall pay for such increased costs. The charge to each such user shall be as determined by the responsible plant operating personnel and approved by the governing body.

(e) The user charge rates established in this article apply to all users, regardless of their location, of the city's treatment works.

(1993 Code, § 15-356) (Ord. 232, passed - -; Ord. 507, passed 5-28-2002; Ord. 622, passed 6-27-2011)

ARTICLE 5: SOLID WASTE

Section

- 15-501 Definitions
- 15-502 Collection
- 15-503 Contracts
- 15-504 Duty of owner, occupant
- 15-505 Containers
- 15-506 Bulk containers
- 15-507 Enter private premises
- 15-508 Ownership of solid waste
- 15-509 Wrapping garbage
- 15-510 Heavy, bulky waste
- 15-511 Hazardous materials
- 15-512 Prohibited practices
- 15-513 Objectionable waste
- 15-514 Unauthorized disposal
- 15-515 Private collectors; license required
- 15-516 Same; application
- 15-517 Same; fee
- 15-518 Same; number to be displayed
- 15-519 Closed vehicle
- 15-520 Rules and regulations
- 15-521 Failure to secure license
- 15-522 Charges

§ 15-501 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COMMERCIAL WASTE. All refuse emanating from establishments engaged in business including, but not limited to, stores, markets, office buildings, restaurants, shopping centers, theaters, hospitals, governments, and nursing homes.

DWELLING UNIT. Any enclosure, building or portion thereof occupied by one or more persons for and as living quarters.

GARBAGE. Waste resulting from the handling, processing, storage, packaging, preparation, sale, cooking, and serving of meat, produce, and other foods and shall include unclean containers.

MULTI-FAMILY UNIT. Any structure containing more than four individual dwelling units.

REFUSE. All garbage and/or rubbish or trash.

RESIDENTIAL. Any structure containing four or fewer individual dwelling units, rooming houses having no more than four persons in addition to the family of the owner or operator, and mobile homes.

RUBBISH or TRASH. All nonputrescible materials such as paper, tin cans, bottles, glass, crockery, rags, ashes, lawn and tree trimmings, stumps, boxes, wood, street sweepings, and mineral refuse. **RUBBISH or TRASH** shall not include earth and waste from building operations or wastes from industrial processes or manufacturing operations.

SINGLE-DWELLING UNIT. An enclosure, building, or portion thereof occupied by one family as living quarters.

SOLID WASTE. All non-liquid garbage, rubbish, or trash.
(1993 Code, § 15-401) (Ord. 214, passed - -)

§ 15-502 COLLECTION.

All solid waste accumulated within the city shall be collected, conveyed, and disposed of by the city or by contractors specifically authorized to collect and dispose of solid waste.
(1993 Code, § 15-402)

§ 15-503 CONTRACTS.

The city shall have the right to enter into a contract with any responsible person for collection and disposal of solid waste.
(1993 Code, § 15-403) (Ord. 214, passed - -)

§ 15-504 DUTY OF OWNER, OCCUPANT.

The owner or occupant of every dwelling unit or commercial enterprise shall provide, at his or her own expense, a suitable container for the storage of solid waste as provided in this article. No owner or occupant shall permit to accumulate quantities of refuse or other waste materials within or close to any structure within the city unless the same is stored in approved containers and in such a manner as not to create a health or fire hazard.
(1993 Code, § 15-404) (Ord. 214, passed - -)

§ 15-505 CONTAINERS.

Unless otherwise provided by the city or a franchised contractor or licensed operator with the city, residential containers shall have a capacity of not more than 30 gallons. They shall be of galvanized metal or other non-rusting material of substantial construction. Each container shall have a tight fitting lid and shall be leak-proof and fly-tight. All containers shall have handles of suitable construction to permit lifting. Plastic bags manufactured for garbage and refuse disposal may be substituted for residential containers. Plastic bags, when used, shall be securely closed. All garbage shall be drained of all liquids before being placed in bags or containers.

(1993 Code, § 15-405)

§ 15-506 BULK CONTAINERS.

On premises where excessive amounts of refuse accumulate or where cans or bags are impractical, bulk containers for the storage of refuse may be used. Containers shall have a capacity and shall be equipped with appurtenances for attaching mechanical lifting devices that are compatible with the collection equipment being used. Containers shall be constructed of durable rust- and corrosion-resistant material that is easy to clean. All containers shall be equipped with tight fitting lids or doors to prevent entrance of insects or rodents. Doors and lids shall be constructed and maintained so they can be easily opened. Containers shall be water-tight, leak-proof, and weather-proof construction.

(1993 Code, § 15-406)

§ 15-507 ENTER PRIVATE PREMISES.

Solid waste collectors, employed by the city or operating under contract with the city, are hereby authorized to enter in and upon private property for the purpose of collecting solid waste therefrom as required by this article.

(1993 Code, § 15-407)

§ 15-508 OWNERSHIP OF SOLID WASTE.

Ownership of solid waste when placed in containers by the occupants or owners of premises upon which refuse accumulates, shall be vested in the city and thereafter shall be subject to the exclusive control of the city, its employees, or contractors. No person shall meddle with refuse containers or in anyway pilfer or scatter contents thereof in any alley or street within the city.

(1993 Code, § 15-408)

§ 15-509 WRAPPING GARBAGE.

All garbage shall be drained of all excess liquid and wrapped in paper or other disposable container before being placed in solid waste containers.

(1993 Code, § 15-409)

§ 15-510 HEAVY, BULKY WASTE.

Heavy accumulations such as brush, tree limbs, broken concrete, sand or gravel, automobile frames, dead trees, and other bulky, heavy materials shall be disposed of at the expense of the owner or person controlling same.

(1993 Code, § 15-410)

§ 15-511 HAZARDOUS MATERIALS.

No person shall deposit in a solid waste container or otherwise offer for collection any hazardous garbage, refuse, or waste. Hazardous material shall include:

- (a) Explosive materials;
- (b) Rags or other waste soaked in volatile and flammable materials;
- (c) Chemicals;
- (d) Poisons;
- (e) Radio-active materials;
- (f) Highly combustible materials;

(g) Soiled dressings, clothing, bedding and/or other wastes, contaminated by infection or contagious disease; and

(h) Any other materials that may present a special hazard to collection or disposal personnel, equipment, or to the public.

(1993 Code, § 15-411)

§ 15-512 PROHIBITED PRACTICES.

It shall be unlawful for any person to:

(a) Deposit solid waste in any container other than that owned or leased by him or her or under his or her control without written consent of the owner and/or with the intent of avoiding payment of the refuse service charge;

(b) Interfere in any manner with employees of the city or its contractors in the collection of solid waste;

(c) Burn solid waste, except in an approved incinerator and unless a variance has been granted and a written permit obtained from the city or the appropriate air pollution control agency; and

(d) Bury refuse at any place within the city, except that lawn and garden trimmings may be composted.

(1993 Code, § 15-412) (Ord. 214, passed - -)

§ 15-513 OBJECTIONABLE WASTE.

Manure from cow lots, stables, poultry yards, pigeon lofts, and other animal or fowl pens, and waste oils from garages or filling stations shall be removed and disposed of at the expense of the person controlling the same and in a manner consistent with this article.

(1993 Code, § 15-413)

§ 15-514 UNAUTHORIZED DISPOSAL.

No person shall haul or cause to be hauled any garbage, refuse, or other waste material of any kind to any place, site, or area within or without the limits of the city unless such site is a sanitary landfill, transfer point, or disposal facility approved by the State Department of Health and Environment.

(1993 Code, § 15-414)

§ 15-515 PRIVATE COLLECTORS; LICENSE REQUIRED.

(a) It shall be unlawful for any person, except an employee of the city specifically authorized for that purpose, to collect or transport any solid waste within the city, without securing a license from the city.

(b) Nothing herein shall be construed to prevent a person from hauling or disposing of his or her own solid waste providing it is done in such a manner as not to endanger the public health or safety or not to become an annoyance to the inhabitants of the city, and not to litter the streets and alleys of the city.

(1993 Code, § 15-415)

§ 15-516 SAME; APPLICATION.

Any person desiring to collect or transport solid waste within the city shall make application for a license to the City Clerk. The application shall set forth the name and address of the applicant, the make and type of vehicle to be operated for collecting and transporting solid waste. The application shall be accompanied by a certificate of inspection and approval of said vehicle by the County Health Officer issued not more than 15 days prior to the date of application.

(1993 Code, § 15-416)

§ 15-517 SAME; FEE.

No license shall be issued unless the applicant shall pay to the City Clerk the sum as set by the city, per annum, for each vehicle used in the collection and transportation of solid waste. The permit shall be

effective only for the calendar year and shall expire on December 1 of the calendar year in which said permit is issued.

§ 15-518 SAME; NUMBER TO BE DISPLAYED.

The City Clerk shall issue a license receipt together with a number, which shall be painted on each vehicle. Said number shall be conspicuously placed upon the vehicle in a place and position to be clearly visible and in a condition to be clearly legible. The number shall be used only on the vehicle for which it is issued.

(1993 Code, § 15-417)

§ 15-519 CLOSED VEHICLE.

Any vehicle used by any person for the collection and transportation of solid waste shall be maintained in a good mechanical condition. Vehicle shall be equipped with an enclosed covered body to prevent the contents leaking or escaping therefrom. Only tree trimmings or brush may be transported in open-bodied vehicles provided the material is securely tied in place to prevent scattering along the streets and alleys.

(1993 Code, § 15-418)

§ 15-520 RULES AND REGULATIONS.

The collection and transportation of trash and waste materials shall be at all times under the general supervision of the Mayor or his or her duly authorized agent, who shall have the authority by and with the consent of the governing body to make additional rules and regulations not inconsistent with the terms and provisions of this article requiring that the collection and transportation of trash and waste materials shall be conducted in such manner as not to endanger the public health, or to become an annoyance to the inhabitants of the city, and providing for a proper fee to be charged to the customer.

(1993 Code, § 15-419)

§ 15-521 FAILURE TO SECURE LICENSE.

Any person who shall conduct or operate within the city limits any vehicle for the purpose of collecting and transporting solid waste without first obtaining a license as required by this article or who shall violate the terms and provisions of this article shall be deemed guilty of a violation of this code and, upon conviction thereof, shall be punished as provided in § 1-116.

(1993 Code, § 15-420)

§ 15-522 CHARGES.

The city shall have a franchise agreement for solid waste collection with rates and billing to be set according to that agreement.

(1993 Code, § 15-421)

ARTICLE 6: WATER CONSERVATION

Section

- 15-601 Purpose
- 15-602 Definitions
- 15-603 Declaration of a water emergency
- 15-604 Voluntary conservation measures
- 15-605 Mandatory conservation measures
- 15-606 Emergency water rates
- 15-607 Regulations
- 15-608 Violations, disconnections, and penalties
- 15-609 Emergency termination

§ 15-601 PURPOSE.

The purpose of this article is to provide for a progressive water supply conservation program, including 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 by the governing body of the city.
(1993 Code, § 15-501) (Ord. 516-09, passed 3-9-2009)

§ 15-602 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

WATER. Water available to the city for treatment by virtue of the city's water rights, water supply, water supply contracts, or any treated water introduced by the city into its water distribution system, including water offered for sale at any coin-operated site.

CUSTOMER. 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.

WASTE OF WATER. Includes, but is not limited to:

- (1) Permitting water to escape down a, street, roadway or other surface intended for vehicle driving purposes, and/or any gutter, ditch, or other surface drain; or

- (2) Failure to repair a controllable leak of water due to defective plumbing.

USER CLASSES. The following classes of uses of water are established for the purposes of this article.

- (1) **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.

- (2) **CLASS 2.** Water used for any commercial, agricultural or industrial purposes, except water actually necessary to maintain the health and personal hygiene of bona fide employees of such businesses or interests while such employees are engaged in the performance of their duties at their place of employment.

- (3) **CLASS 3.** Domestic usage, other than that which would be included in either Classes 1 or 2.

- (4) **CLASS 4.** Water necessary only to sustain human life and the lives of domestic livestock pets and maintain standards of hygiene and sanitation.
(1993 Code, § 15-502) (Ord. 516-09, passed 3-9-2009)

§ 15-603 STAGES OF CONSERVATION.

In the event that the governing body of the city or the city's designated official determines that the city's water supply may be in subject to a shortage in supply or the governing body of the city determines there is need for conservation of city's water resources for any reason, the city may begin the progressive three-stage water conservation program by declaring a water watch as described in division (a) below or, in times of need and/or duress, the governing body of the city may choose to declare any section of the program described in this section in effect at any time.

- (a) *Stage 1: Declaration of Water Watch.* Whenever the governing body of the city finds that 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 inform the public and ask for voluntary reductions in water use. Such a watch 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 watch shall be effective upon their publication in the official city newspaper.

- (b) *Stage 2: 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 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 warning shall be effective upon their publication in the official city newspaper. Pursuant to the approval of the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, the recommended restrictions on nonessential uses may be extended to private wells within the city limits.

(c) *Stage 3: 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. Pursuant to the approval of the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, the mandatory restrictions on water use may be extended to private wells within the city limits.

(1993 Code, § 15-503) (Ord. 516-09, passed 3-9-2009)

§ 15-604 VOLUNTARY CONSERVATION MEASURES.

Upon the declaration of a water watch or water warning as provided in § 15-603(a) or (b), the Mayor (or the City Manager) 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:

(a) Class 1 uses of water; and

(b) Waste of water.

(1993 Code, § 15-504) (Ord. 516-09, passed 3-9-2009)

§ 15-605 MANDATORY CONSERVATION MEASURES.

Upon the declaration of a water supply emergency as provided in § 15-603(c), the Mayor (or the City Manager or authorized city official) is also authorized to implement certain mandatory water conservation measures, including, but not limited to, the following conservation measures:

(a) 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;

(b) Restrictions on the uses of water in one or more classes of water use as described in § 15-602(d), wholly or in part;

(c) Restrictions on the sales of water at coin-operated facilities or sites;

(d) 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;

(e) Complete or partial bans on the waste of water; and

(f) Any combination of the measures in divisions (a) through (e) above as the governing body of the city or authorized city official may deem appropriate and/or necessary.

(1993 Code, § 15-505) (Ord. 516-09, passed 3-9-2009)

§ 15-606 EMERGENCY WATER RATES.

(a) Upon the declaration of a water supply emergency as provided in § 15-603(c), the governing body of the city shall have the power to adopt emergency water rates by ordinance designed to conserve water supplies.

(b) 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).

(1993 Code, § 15-506) (Ord. 516-09, passed 3-9-2009)

§ 15-607 REGULATIONS.

During the effective period of any water supply emergency as provided for in § 15-603(c), the Mayor (or City Manager or Water Superintendent or other authorized city official) is empowered to promulgate such regulations as may be necessary to carry out the provisions of this article, 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.

(1993 Code, § 15-507) (Ord. 516-09, passed 3-9-2009)

§ 15-608 VIOLATIONS, DISCONNECTIONS, AND PENALTIES.

(a) If the Mayor, City Manager, Water Superintendent, or other authorized city official or officials charged with implementation and enforcement of this article or a water supply emergency resolution learn of any violation of any water use restrictions imposed pursuant to §§ 15-605 or 15-607, a written notice of the violation shall be affixed to the property where the violation occurred and the customer of record and/or any other person known to the city to be responsible for the violation and/or the correction of said violation shall be provided with either actual or mailed notice. Said notice shall describe the violation(s) and order that the noted violation(s) be corrected, cured or abated immediately or within such specified time as the city determines is reasonable for such correction, cure or abatement under the circumstances.

(1) In the event the order is not cured within the time period given in the notice, 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(s) 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 city governing body.

(B) If such a hearing is requested by the customer charged with the violation, the customer shall be given a full opportunity to be heard by the city governing body or the city official designated as a hearing officer by the city governing body before termination is ordered.

(2) The city governing body or the city official designated as a hearing officer by the city governing body shall make findings of fact and order whether service should continue or be terminated.

(b) A fee of \$50 shall be paid for the reconnection of any water service terminated pursuant to division (a) above. In the event of subsequent violations, the reconnection fee shall be \$200 for the second reconnection, and \$300 for any subsequent additional reconnections within a one-year period.

(c) Violations of this article 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 article shall be guilty of a municipal offense. Each calendar day in which a violation is observed 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. The penalty for a second or subsequent conviction shall be a mandatory fine of \$200. In addition, such customer shall 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.

(1993 Code, § 15-508) (Ord. 516-09, passed 3-9-2009)

§ 15-609 EMERGENCY TERMINATION.

Nothing in this article 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 or for any other emergency as required or authorized by ordinance or as deemed necessity of the city by such city official or the governing body of the city.

(1993 Code, § 15-509) (Ord. 516-09, passed 3-9-2009)

CHAPTER XVI: ZONING AND PLANNING

Article

- 1. CITY PLANNING COMMISSION/BOARD OF ZONING APPEALS**
- 2. ZONING REGULATIONS**
- 3. SUBDIVISION REGULATIONS**
- 4. ANNEXED PROPERTIES**

ARTICLE 1: CITY PLANNING COMMISSION/BOARD OF ZONING APPEALS

Section

- 16-101 Commission establishment
- 16-102 Membership, terms, interest, and compensation
- 16-103 Meetings, officers, and records
- 16-104 Powers and duties
- 16-105 Board of Zoning Appeals
- 16-106 Budget

§ 16-101 COMMISSION ESTABLISHMENT.

There is hereby established the Cunningham City Planning Commission which is composed of seven members of which five members shall be residents of the city and two members shall reside outside the city, but within the city's future extraterritorial zoning jurisdiction.
(Ord. 302, passed 12-29-1997)

§ 16-102 MEMBERSHIP, TERMS, INTEREST, AND COMPENSATION.

The members of the Planning Commission shall be appointed by the Mayor with the consent of the City Council at the first regular meeting of the governing body in December of each year and take office at the next regular meeting of the Commission. The members of the Commission first appointed shall serve respectively for terms of one year, two years and three years, divided equally or as nearly equal as possible between those terms. Thereafter, all members shall be appointed for terms of three years each. The appointments shall be so made that the terms of office of the members residing outside of the corporate limits of the city do not expire within the same year. In case of death, incapacity, resignation, or disqualification of any member, appointment to such a vacancy on the Commission shall be made for the unexpired term of the member leaving the membership. The governing body may adopt rules and regulations providing for removal of members of the Commission. Members of the Commission shall serve without compensation, but may be reimbursed for expenses actually incurred in the performance of their duties as deemed desirable by the governing body.
(Ord. 302, passed 12-29-1997)

§ 16-103 MEETINGS, OFFICERS, AND RECORDS.

The members of the Planning Commission shall meet at such time and place as may be fixed in the Commission's bylaws. The Commission shall elect one member as Chairperson and one member as

Vice-Chairperson who shall serve one year and until their successors have been elected. A Secretary shall also be elected who may or may not be a member of the Commission. Special meetings may be called at any time by the Chairperson or in the Chairperson's absence by the Vice-Chairperson. As required by state statute, the Commission shall adopt bylaws for the transaction of business and hearing procedures which shall be subject to the approval of the governing body. A proper record of all the proceedings of the Commission shall be kept. The Commission, from time to time, may establish subcommittees, advisory committees, or technical committees to advise or assist in the activities of the Commission.

(Ord. 302, passed 12-29-1997)

§ 16-104 POWERS AND DUTIES.

The governing body and Planning Commission shall have all the rights, powers and duties as authorized in K.S.A. 12-741 et seq., and amendments thereto, which are hereby incorporated by reference as part of this article and shall be given full force and effect as if the same had been fully set forth. The Commission is hereby authorized to make or cause to be made, adopted and maintained a comprehensive plan for the city and any unincorporated territory lying outside of the city, but within the county in which the city is located, which in the opinion of the Commission forms the total community of which the city is a part. The Commission shall also cause to be prepared, adopted, and maintained zoning and subdivision regulations on all land within the jurisdiction designated by the governing body. The comprehensive plan and zoning and subdivision regulations are subject to final approval of the governing body by ordinance. Periodically, the governing body may request the Commission to undertake other assignments related to planning and land use regulations.

(Ord. 302, passed 12-29-1997)

§ 16-105 BOARD OF ZONING APPEALS.

The Planning Commission is hereby designated to also serve as the city's Board of Zoning Appeals with all the powers and duties as provided for in K.S.A. 12-759. The Board shall adopt rules in the form of bylaws for its operation which shall include hearing procedures. Public records shall be kept of all official actions of the Board which shall be maintained separately from those of the Commission. The Board shall keep minutes of its proceedings showing evidence presented, findings of fact, decisions, and the vote upon each appeal. The governing body shall establish a scale of reasonable fees to be paid in advance by the appealing party.

(Ord. 302, passed 12-29-1997)

§ 16-106 BUDGET.

The governing body shall approve a budget for the Planning Commission and make such allowances to the Commission as it deems proper, including funds for the employment of such employees or consultants as the governing body may authorize and provide, and shall add the same to the general budget. Prior to the time that moneys are available under the budget, the governing body may

appropriate moneys for such purposes from the General Fund. The governing body may enter into such contracts as it deems necessary and may receive and expend funds and moneys from the state or federal government or from any other source for such purposes.

(Ord. 302, passed 12-29-1997)

ARTICLE 2: ZONING REGULATIONS

Section

16-201 Zoning regulations incorporated

§ 16-201 ZONING REGULATIONS INCORPORATED.

There are hereby incorporated by reference, as if set out fully herein, the zoning regulations adopted by the governing body of the city, as prepared by the city and consisting of Ord. 601 and entitled, "Zoning Regulations of the City of Cunningham, Kansas". One copy of the zoning regulations, marked "Official Copy as Incorporated by the Code of the City of Cunningham", and to which there shall be a published copy of the ordinance codified herein attached, shall be filed with the City Clerk to be open for inspection and available to the public at all reasonable business hours.

(Ord. 601, passed 3-29-2010; Ord. 615, passed 1-31-2011; Ord. 650, passed 1-25-2016)

ARTICLE 3: SUBDIVISION REGULATIONS

[Reserved]

ARTICLE 4: ANNEXED PROPERTIES

[Reserved]

TABLE OF SPECIAL ORDINANCES

Table

I. CHARTER ORDINANCES

II. FRANCHISES

TABLE I: CHARTER ORDINANCES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
235	5-27-1986	Exempting the city from a portion of K.S.A. 12-16,102 relating to a property tax lid for the Employee Benefit Contribution Fund
236	5-27-1993	Establishing an Employee Benefit Contribution Fund in accordance with K.S.A. 12-16,102
503	12-13-2000	Exempting the city from the provisions of law pertaining to a city engaging in a commercial venture; providing the authority for the city to enter into an agreement with the Cunningham Cooperative Association, also known as the County Food Market
512-05	10-31-2005	Amending the city code provisions concerning the transaction of city business and supplementing the provisions of K.S.A. 12-3002
15-001	11-24-2015	Exempting the city from the provisions of K.S.A. 12-104a relating to the filling of governing body vacancies
CO-16-01	1-25-2016	Exempting the city from the provisions of K.S.A. 12-4112, and amendments thereto; providing substitute and additional provisions relating to the Code of Procedure for Municipal Courts; costs and fees
17-01	1-6-2017	Exempting the city from the provisions of K.S.A. 15-201, relating to the election of the governing body, their terms of office, transitions to November elections and nomination petitions

TABLE II: FRANCHISES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
215	7-25-1977	Granting a natural gas franchise to Kansas Power and Light Company
226	5-24-1982	Granting a community antenna television franchise to C. & L. Cable Vision
300	1-27-1997	Granting a natural gas franchise to Western Resources, Inc.
504	- -	Granting a cable television system franchise to Cox Communications Kansas, LLC
523	12-28-2009	Granting an electric franchise to Southern Pioneer Electric Company

PARALLEL REFERENCES

References to Kansas Statutes Annotated

References to 1993 Code

References to Charter Ordinances

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REFERENCES TO KANSAS STATUTES ANNOTATED

<i>K.S.A. Section</i>	<i>Code Section</i>
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8-1102	8-311
8-1599	3-107
8-2118	14-102
9-1402	1-704
9-2107	1-704
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12-741 et seq.	16-104
12-759	16-105
12-1,115	4-611, 8-210, 8-2A14, 8-403
12-1608	1-310
12-1617	5-207
12-1617e	8-205, 8-210, 8-2A09, 8-307
12-1617f	8-403
12-1675	1-704
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12-1740 et seq.	3-105
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12-1802	13-103
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12-1806	13-107
12-1807	13-102
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32-1047	10-203
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40-2404	8-711
40-3901 et seq.	4-611, 8-701
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41-307 to 41-307a	3-212

<i>K.S.A. Section</i>	<i>Code Section</i>
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41-310	3-302
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41-713	3-306
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