

CITY OF LEROY, KANSAS

CODE OF ORDINANCES

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ARTICLE 1: GENERAL PROVISIONS

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§ 1-101 CODE DESIGNATED.

The chapters, articles and sections herein shall constitute and be designated as “The Code of the City of LeRoy, Kansas”, and may be so cited. The code may also be cited as the “LeRoy City Code”.

§ 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 LeRoy, Kansas.

CODE. The code of the City of LeRoy, 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 Coffey 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, 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.

§ 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.

§ 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.

§ 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.

§ 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.

§ 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 LeRoy 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 LeRoy 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 LeRoy is hereby repealed".

§ 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)

§ 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.

§ 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)

§ 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)

§ 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.

§ 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)

§ 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.

§ 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.

§ 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.

§ 1-117 SEVERABILITY.

If for any reason any chapter, article, section, subsection, 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.

ARTICLE 2: GOVERNING BODY

Section

- 1-201 Governing body
- 1-202 Same; powers generally
- 1-203 Same; meetings
- 1-204 Same; quorum
- 1-205 Powers of the Mayor
- 1-206 President of the Council
- 1-207 Administrative powers
- 1-208 Vacancies in governing body; how filled
- 1-209 Compensation
- 1-210 Expenses
- 1-211 Incorporating Code of Procedure for Kansas cities
- 1-212 Code of Ethics

§ 1-201 GOVERNING BODY.

The governing body shall consist of a Mayor and six Council members to be elected as set out in Ch. VI of this code.

§ 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)

§ 1-203 SAME; MEETINGS.

(a) Regular meetings of the governing body shall be held on the first Monday of each month at 6:00 p.m. and shall be held at the City Hall. In the event that the first Monday of the month is a holiday the regular meeting shall be held on the following Monday at the time and place designated herein.

(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) (Ord. 383, passed 11-3-2008)

§ 1-204 SAME; QUORUM.

In all cases, it shall require a majority of the Council-elect to constitute a quorum to do business.
(K.S.A. 15-106)

§ 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.

§ 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.
(K.S.A. 15-310)

§ 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.

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

(a) *Mayor.* The President of the Council becomes Mayor and takes office until the next regular election for that office. The vacancy in the Council must then be filled. The Council elects a new President of the Council.

(b) *Council member.* The Mayor with the consent of the Council appoints. The Council member takes office until the next election for that office.
(K.S.A. 15-201)

§ 1-209 COMPENSATION.

Members of the governing body shall receive as compensation such amounts as may be fixed by ordinance.

§ 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/or

(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.

§ 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 LeRoy, 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.

§ 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.*

(1) *Financial or personal interests.* 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 interests, includes an interest arising from blood or marriage relationships or close business or political association.

(2) *Specific conflicts of interests.* Specific conflicts of interest are enumerated below for the guidance of officials and employees.

(A) *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.

(B) *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.* 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 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 grant in the discharge of his or her duties any improper favor, service or thing of value. The prohibition against gifts or favors shall not apply to an occasional non-pecuniary gift, of only nominal value, an award publicly presented in recognition of public service, or 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.

ARTICLE 3: OFFICERS AND EMPLOYEES

Section

- 1-301 Appointment
- 1-302 Employees
- 1-303 Removal
- 1-304 Vacancy in office
- 1-305 City Clerk
- 1-306 Same; fiscal records
- 1-307 Same; seal; oaths
- 1-308 Same; withholding agents
- 1-309 City Treasurer
- 1-310 City Attorney; office; duties
- 1-311 Appointment or employment in more than one position
- 1-312 Conflict of interest

§ 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.

§ 1-302 EMPLOYEES.

The Mayor shall have authority to hire all other employees, or such authority may be delegated to the respective department heads.

§ 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.

§ 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.

§ 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.

§ 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.

§ 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.

§ 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.

§ 1-309 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 monies 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, 12-1608)

§ 1-310 CITY ATTORNEY; OFFICE; DUTIES.

(a) 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.

(b) The City Attorney shall:

- (1) Attend meetings of the City Council when so directed to attend by the Council;
- (2) 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;
- (3) When requested by the City Council, give opinions in writing upon any such questions;
- (4) 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;
- (5) Approve all ordinances of the city as to form and legality;
- (6) Attend Planning Commission and Board of Zoning Appeals meetings when so directed by the Boards;
- (7) Appear and prosecute all violations of city ordinances in Municipal Court when his or her services shall be required; and
- (8) Perform such other duties as may be prescribed by the governing body and the state statutes.

§ 1-311 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.

§ 1-312 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.

ARTICLE 4: PERSONNEL POLICY AND EMPLOYEE BENEFITS

Section

1-401 Personnel policies and guidelines

§ 1-401 PERSONNEL POLICIES AND GUIDELINES.

There is hereby incorporated by reference, for the purpose of establishing employee personnel rules and regulations, several ordinances. Official copies of these types of ordinances 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.

(Ord. 273, passed 3-23-1987; Ord. 274, passed 3-23-1987)

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 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, 54-106, 75-4308)

§ 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.

§ 1-503 BONDS REQUIRED.

(a) (1) 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.

(2) The bond shall be in the following amount, to wit:

(A) City Treasurer: \$10,000;

(B) City Clerk: \$10,000;

(C) Clerk of Municipal Court: \$1,000; and

(D) 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.

§ 1-504 SAME; PREMIUMS.

All premiums on surety bonds shall be paid by the city.
(K.S.A. 78-111)

§ 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 monies or property coming into the hands of each such officer by virtue of his or her office.

§ 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.

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 State Open Records Act, being K.S.A. 45-215 et seq.

(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.

§ 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) 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 State Open Records Act, being K.S.A. 45-215 et seq. 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.

§ 1-603 LOCAL FREEDOM OF INFORMATION OFFICERS.

The Local Freedom of Information Officer shall:

(a) Prepare and provide educational materials and information concerning the State Open Records Act, being K.S.A. 45-215 et seq;

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

(c) Respond to inquiries relating to the State 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 State 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.

(b) Such hours shall be no fewer than the hours each business day the office is regularly open to the public.

(c) 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.

§ 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.

§ 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.

§ 1-607 APPOINTMENT OF OFFICIAL CUSTODIANS.

The following city officers are hereby appointed as official custodians for purposes of the State Open Records Act, being K.S.A. 45-215 et seq., 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.

§ 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 State Open Records Act, being K.S.A. 45-215 et seq.

(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.

§ 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 State Open Records Act, being K.S.A. 45-215 et seq, 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.

§ 1-611 FEE ADMINISTRATION.

(a) 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.

(b) Each custodian shall transmit all record fee monies collected to the City Treasurer not less than monthly.

(c) 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.

§ 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 shall be charged, at the rate of \$15, per hour per employee engaged in the record search. A minimum charge, of \$15 shall be charged for each such request.

§ 1-613 COPYING FEE.

(a) A fee of \$0.25 per page shall be charged for photocopying public records, such fee to cover the cost of labor, materials and equipment.

(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.

§ 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 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 \$30.

(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.

§ 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.

ARTICLE 7: INVESTMENT OF PUBLIC 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 monies, 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 monies 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 monies to maximize net earnings, consistent with the public responsibility to secure maximum, safe investment return possible from monies assigned to its stewardship, to relieve demands on the property tax, and to otherwise reduce the cost of public services.

§ 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) 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 his, her or 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. 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 monies 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) If no main or branch office of a bank, savings and loan association or savings bank, is located in the city: 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 K.S.A. 12-1675a(g), 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; or

(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 K.S.A. 12-1675a(g), 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 monies 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 monies 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 K.S.A. 12-1675a(g), 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 K.S.A. 12-1675a(g), 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 K.S.A. 12-1675a(g), and amendments thereto, and which otherwise qualify for such deposits.

(K.S.A. 12-1675)

§ 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 monies available on demand deposit to assure prompt payment of all city obligations.

§ 1-706 CUSTODY AND SAFEKEEPING.

Securities purchased pursuant to this article shall be under the care of the person designated by 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 city officers. Securities not held in the custody of a bank or trust company shall be personally deposited by such officer 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.

§ 1-707 SALE OR TRANSFER.

If, in order to maintain sufficient monies 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 monies, 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.

§ 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.

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	Livestock
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	Dangerous and 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 premises 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 two dogs.

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.
(Ord. 284, passed 10-3-1988)

§ 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 of the city 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, harborer or keeper of an animal in violation of this chapter, and the person receiving the citation shall, within ten days, appear in the Municipal Court of the city to answer the charged violation of this chapter.

§ 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.

§ 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.

§ 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.

§ 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.

§ 2-107 LIVESTOCK.

(a) *LIVESTOCK* is defined as any domesticated animals that are commonly bred or raised for sale or the production of products for sale, including but not limited to, cattle, horses, bison, swine, llamas, alpacas, goats, sheep, rabbits and fowl. Canines and felines are not considered as livestock for the purpose of this section.

(b) 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 any livestock within the city unless said livestock are kept in an area at least three acres in size and which is enclosed by a fence sufficient to keep the said animals enclosed within said area.

(c) If any of said animals defined and described herein are found outside of the enclosed area and within the city, the owner or any person possessing or having said animals under his or her control shall be subject to a fine of not more than \$500 per animal for a first conviction; a fine of not more than \$1,000 per animal for a second conviction; a fine of not more than \$1,500 per animal for a third or subsequent conviction and court costs.

(d) If any of said animals defined and described herein are found within the city and enclosed in an area of less than three acres, said animals shall be considered as running loose.
(Ord. 385, passed - -2009)

§ 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:

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(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 Art. 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.

§ 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.

§ 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.

(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 harbinger 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.

§ 2-112 NOISY ANIMALS.

(a) 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.

(b) 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.

§ 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.

§ 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 Ch. VIII, Art. 6 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.

§ 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.

§ 2-115 DANGEROUS AND VICIOUS ANIMALS.

(a) (1) *Keeping prohibited.* It shall be unlawful to own, or in any way possess, with the exception for boarding and training, within the corporate limits of the city:

(A) Any warm blooded, carnivorous or omnivorous, wild or exotic animal, including, but not limited to, non-human primates, raccoons, skunks, foxes and wild and exotic cats, but excluding fowl, ferrets and small rodents of varieties used for laboratory purposes;

(B) Any animal having poisonous bites; and

(C) Any vicious dog which is defined to mean any dog which by virtue of its breeding, training, characteristics, behavior or other factors, the owner or custodian thereof knows or has reason to know has a propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings.

(2) *Rebuttable presumption.* There shall be a rebuttable presumption that a pit bull dog is a vicious dog. **PIT BULL DOG** shall mean:

(A) The bull terrier breed of dog;

(B) The Staffordshire bull terrier breed of dog;

(C) The American pit bull terrier breed of dog;

(D) The American Staffordshire terrier breed of dog; or

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

(b) *Keeping of vicious dogs.* The provisions of division (a) above are not applicable to owners, keepers or harborers of vicious dogs duly licensed and registered with the city as of 6-10-1987 in compliance with Ord. 239, or as of the effective date of this section. The keeping of such dogs, however, shall be subject to the following standards.

(1) *Leash and muzzle.* No person shall permit a vicious dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than four feet in length. No person shall permit a vicious dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, buildings and the like. In addition, all vicious dogs on a leash outside of the animal's kennel must be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.

(2) *Confinement.* All vicious dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as above provided. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine vicious dogs must be locked with a key or combination lock when such animals are within the structure. Such structure must have a secure bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than two feet. All structures erected to house vicious dogs must comply with all zoning and building regulations of the city. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.

(3) *Confinement indoors.* No vicious dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building of its own violation. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.

(4) *Signs.* All owners, keepers or harborers of vicious dogs within the city shall within ten days of the effective date of this section display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog". In addition, a similar sign is required to be posted on the kennel or pen of such animal.

(5) *Insurance.* All owners, keepers or harborers of vicious dogs must within ten days of the effective date of this section provide proof to the City Clerk of public liability insurance in a single incident amount of \$50,000 for bodily injury to or death of any person or persons or for damage to property owned by any persons which may result from the ownership, keeping or maintenance of such animal. Such insurance policy shall provide that no cancellation of the policy will be made unless ten days' written notice is first given to the City Clerk.

(6) *Identification photographs.* All owners, keepers or harborers of dogs, except for boarding and training, must within ten days of the effective date of this section provide to the City Clerk two color photographs of the registered animal clearly showing the color and approximate size of the animal.

(7) *Reporting requirements.* All owners, keepers or harborers of vicious dogs must within ten days of incident, report the following information in writing to the City Clerk as required hereinafter:

(A) The removal from the city or death of a vicious dog;

(B) The birth of offspring of a vicious dog; and

(C) The new address of a vicious dog owner should the owner move within the corporate city limits.

(8) *Sale or transfer of ownership prohibited.* No person shall sell, barter or in any other way dispose of a vicious dog registered within the city to any person within the city unless the recipient person resides permanently in the same household and on the same premises as the registered owner of such dog; provided that, the registered owner of a vicious dog may sell or otherwise dispose of a registered dog or the offspring of such dog to persons who do not reside within the city.

(9) *Animals born of registered dogs.* All offspring born of vicious dogs registered within the city must be removed from the city within six weeks of the birth of such animal.

(10) *Irrebuttable presumptions.* There shall be an irrebuttable presumption that any dog registered within the city as a pit bull dog or any of those breeds prohibited by this section is in fact a dog subject to the requirements of this section.

(11) *Failure to comply.* It shall be unlawful for the owner, keeper or harborer of a vicious dog registered within the city to fail to comply with the requirements and conditions set forth in this section. Any dog found to be the subject of a violation of this section shall be subject to immediate seizure and impoundment. In addition, failure to comply will result in the revocation of the license of such animal resulting in the immediate removal of the animal from the city.

(12) *Violations and penalties.* Any person violating or permitting the violation of any provision of this section shall, upon conviction in Municipal Court, be fined a sum not less than \$200 and not more than \$1,000. In addition to the fine imposed, the Court may sentence the defendant to imprisonment in the county jail for a period not to exceed 30 days. In addition, the court shall order the registration of the subject vicious dog revoked and the dog removed from the city. Should the defendant refuse to remove the dog from the city, the Municipal Court Judge shall find the defendant owner in contempt and order the immediate confiscation and impoundment of the animal. Each day that a violation of this section continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this section shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this section.

(Ord. 277, passed 12-7-1987; Ord. 431, passed 11-4-2019)

§ 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. Any animal or fowl found at large shall be impounded as provided in §§ 2-117 or 2-207 (dogs).

§ 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, as set by the governing body, 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 person designated by the city 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.

§ 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 Animal Control Officer or any person in charge, the impounding fee and all costs incurred as a result of such impoundment.

§ 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 section 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.

§ 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.

§ 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.

§ 2-122 EMERGENCY; PROCLAMATION.

(a) 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.

(b) 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.

(c) The owner of such animal shall be prosecuted for such violation thereof.

§ 2-123 KENNEL LICENSES.

(a) No person or household shall own or harbor more than two dogs of six months of age or older or more than one litter of pups, or more than _____ cats of more than six months of age or more than one litter of kittens, or more than a total of _____ 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; or

(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 \$2 per dog, with a minimum fee of \$50. 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.

(Ord. 284, passed 10-3-1988)

ARTICLE 2: DOGS

Section

- 2-201 Definitions
- 2-202 Licensing
- 2-203 Anti-rabies vaccination required
- 2-204 License fees
- 2-205 Licensing period
- 2-206 License tags
- 2-207 Dogs on school grounds or recreation areas
- 2-208 Owner notification
- 2-209 Dog pound fees
- 2-210 Dogs in heat
- 2-211 Nuisance
- 2-212 Humane care
- 2-213 Injured or ill animals
- 2-214 Dogs which have bitten persons
- 2-215 Mayor's proclamation
- 2-216 Interference
- 2-217 Penalties
- 2-218 Administration

§ 2-201 DEFINITIONS.

For the purpose of this article, the following terms, phrases, words and deviations shall have the meaning given herein. The word "shall" is always mandatory and not merely directive.

AT LARGE. A dog shall be deemed large if off the premises of its owner and not under the immediate control of a responsible person.

CITY CLERK. The City Clerk of the City of LeRoy or his or her duly designated and authorized representative.

HUMANE OFFICER. The Chief of Police of the City of LeRoy.

OWNER. Any person, partnership or corporation owning, with the exception for boarding and training, one or more dogs.

(Ord. 239, passed 10-15-1975; Ord. 308, passed 8-2-1993; Ord. 430, passed 11-4-2019)

§ 2-202 LICENSING.

No person shall own or have custody of any dog over six months of age unless such dog is licensed as herein provided.

(Ord. 239, passed 10-15-1975)

§ 2-203 ANTI-RABIES VACCINATION REQUIRED.

Before a license will be issued, the owner shall produce satisfactory evidence that the dog has been vaccinated against rabies with either of the following:

(a) Killed tissue vaccine (sometimes known as “one-year” vaccine) within the six months previous to the date of the issuance of a license; or

(b) With the modified live virus vaccine (sometimes known as “two-year” vaccine) within 20 months previous to the date of the issuance of the license.

(Ord. 239, passed 10-15-1975)

§ 2-204 LICENSE FEES.

The license fee shall be \$5 for each male or spayed female dog or cat and \$7 for each unsprayed female dog or cat.

(Ord. 239, passed 10-15-1975; Ord. 308, passed 8-2-1993)

§ 2-205 LICENSING PERIOD.

All licenses shall be valid and cover the period from June 10 to June 9 of the following year or part thereof each year. Such license shall be due and payable on or before June 10 of each year. In the event that a license for a dog or cat is not purchased on or before June 10 of each year, the license fee shall be two times the regular license fee. In the event that a license for a dog or cat is not purchased on or before June 20 of each year, the license fee shall be four times the regular license fee.

(Ord. 239, passed 10-15-1975; Ord. 308, passed 8-2-1993)

§ 2-206 LICENSE TAGS.

License tags shall be issued in the form of a durable tag numbered and lettered “LeRoy” and the year, which shall be fastened to the dog’s collar or harness and worn at all times. License tags shall not be transferable. Should a dog tag be lost or destroyed the owner shall forthwith apply to the City Clerk for a new license tag and shall pay unto the City Clerk the sum of \$1 for each such duplicate. No refunds shall be made on any dog or cat license fee because of the death of the dog or cat or the removal of the dog or cat from the city before the expiration of the license. It shall be the duty of the City Clerk to issue a receipt which shall show the name of the person paying the license fee a description and sex of the dog and number of the tag issued. Any moneys received under this article shall be paid to the City Treasurer to the credit of the General Fund of the city.

(Ord. 239, passed 10-15-1975; Ord. 308, passed 8-2-1993)

§ 2-207 DOGS ON SCHOOL GROUNDS OR RECREATION AREAS.

Owners shall not permit their dogs on any school ground, or on any public recreation area, unless the dog is controlled by a leash or similar device.

(Ord. 239, passed 10-15-1975)

§ 2-208 OWNER NOTIFICATION.

The Humane Officer shall upon taking any dog into custody and impounding the dog make a record thereof with a description of said dog and the date and place taken into custody and the place of impounding and, thereupon, shall immediately post a public notice at the City Clerk’s office setting forth such facts. After impoundment of a dog which can be identified by the license tag, the City Humane Officer shall notify the owner and the owner may claim his or her dog within three days after notification. If the owner does not claim his or her dog, or if no claim is made on a dog of unknown ownership after five days, the Humane Officer shall dispose of the dog in a humane manner.

(Ord. 239, passed 10-15-1975)

§ 2-209 DOG POUND FEES.

Fees are as follows:

(a) Dogs and cats shall be released from the dog pound upon payment of the license fee, if necessary, and the applicable dog pound fees. The dog pound fees shall be determined by the Humane Officer impounding and \$3 per day for feeding and care of the dog or cat;

(b) The sum of \$10 as redeeming fee for each time a dog is redeemed; and

(c) Before any dog or cat shall be released from the pound a person will need to obtain a redemption slip from the City Clerk showing that all fees and costs have been paid.
(Ord. 239, passed 10-15-1975; Ord. 308, passed 8-2-1993)

§ 2-210 DOGS IN HEAT.

Every female dog in heat shall be confined in a closed building so that the animal cannot come into contact with another animal, except for planned breeding. Any such dog in heat and of unknown ownership found running at large may be disposed of by the Humane Officer immediately wherever found.

(Ord. 239, passed 10-15-1975)

§ 2-211 NUISANCE.

Every owner of a dog shall exercise proper care and control of his or her animal to prevent the animal from becoming a public nuisance. Excessive or untimely barking, molesting passersby, chasing vehicles, attacking other domestic animals, depositing excretory matter on property other than that of the owner, damaging property, running at large in the case of dogs or similar acts performed by dogs, shall be deemed a nuisance. Further, it shall be unlawful to permit a dog which has the propensity to bite or attack human beings to run loose on or within the owner's premises in such a manner as to endanger the safety of any person lawfully entering such premises.

(Ord. 239, passed 10-15-1975)

§ 2-212 HUMANE CARE.

All owners shall provide their dogs with sufficient food and water, proper shelter, veterinary care when needed to prevent suffering and with humane care and treatment. No person shall poison or ill treat a dog, nor may a dog be abandoned.

(Ord. 239, passed 10-15-1975)

§ 2-213 INJURED OR ILL ANIMALS.

Whenever the Humane Officer encounters a stray animal suffering pain, injury or illness, he or she shall take the animal to a veterinarian where the cost of any care or treatment shall be borne by the owner. If the ownership of the animal cannot be determined, the Humane Officer shall act in accordance with his or her best judgment in a humane manner.

(Ord. 239, passed 10-15-1975)

§ 2-214 DOGS WHICH HAVE BITTEN PERSONS.

When any dog or other animal subject to rabies has bitten or attacked any person or when any dog or other animal is suspected of having rabies, it shall be the duty of any person having a knowledge of such facts to report the same immediately to the Humane Officer. Such report may be made at the police station or City Clerk's office. Such animal shall not be killed, but shall be confined in such way and for such period of time as the City Humane Officer shall direct. No person shall release from confinement any such animal or remove such animal from its place of confinement to another place without the consent of the City Humane Officer. The confinement of the animal shall be at the expense of the owner, or custodian, of such animal, and the City Humane Officer shall be empowered in his or her discretion to order impoundment or examination of such animal, or both, to determine whether it may have rabies. No person shall refuse to surrender any animal for quarantine when demand is made by the order of the City Humane Officer. If the animal dies or is killed, a laboratory examination of the head shall be made. Any person refusing or failing to comply with the provisions of this section or with the order or directives of the City Humane Officer relating thereto shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to the penalties set forth under § 2-217 of this article. (Ord. 239, passed 10-15-1975)

§ 2-215 MAYOR'S PROCLAMATION.

Whenever it shall become necessary to safeguard the public from the dangers of hydrophobia or rabies, the Mayor is hereby empowered to issue his or her proclamation declaring it necessary to muzzle or confine, or both, all dogs in the city. (Ord. 239, passed 10-15-1975)

§ 2-216 INTERFERENCE.

The City Humane Officer or any properly designated city employee is authorized to enter upon private property for the purpose of enforcing this article. No person shall conceal any dog or break open or destroy an animal pound or shelter or to attempt to take therefrom any dog therein impounded or otherwise interfere with the proper enforcement of this article. (Ord. 239, passed 10-15-1975)

§ 2-217 PENALTIES.

Any person violating any of these regulations shall be deemed guilty of a misdemeanor and, upon conviction therefor, may be fined a sum not exceeding \$100. (Ord. 239, passed 10-15-1975)

§ 2-218 ADMINISTRATION.

The city governing body is hereby authorized to develop whatever administrative regulations as may be necessary to implement the provisions of this article, including procedures for dog enumerations and dog pound operation.

(Ord. 239, passed 10-15-1975)

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) Armadillos;
- (4) Baboons;
- (5) Badgers;
- (6) Bears;
- (7) Bison;
- (8) Bobcats;
- (9) Cheetahs;
- (10) Crocodilians, 30 inches in length or more;
- (11) Constrictor snakes, six feet in length or more;
- (12) Coyotes;

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

(14) Elephants;

(15) Game cocks and other fighting birds;

(16) Hippopotami;

(17) Hyenas;

(18) Jaguars;

(19) Leopards;

(20) Lions;

(21) Lynxes;

(22) Monkeys;

(23) Ostriches;

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

(25) Raccoons;

(26) Rhinoceroses;

(27) Skunks;

(28) Tigers; and

(29) 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) The Municipal Judge shall have the authority to order any animal deemed vicious confined, destroyed or removed from the city.

(Ord. 385, passed - -2009)

CHAPTER III: BEVERAGES

Article

- 1. GENERAL PROVISIONS**
- 2. ENHANCED 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.

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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.

§ 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 50 feet of any (church, school, nursing home, hospital, said distance to be measured from the nearest property line of such church, school, nursing home, 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.

§ 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 LeRoy Community Center, city parks, or anyone obtaining a license from the city for a special event, which is property owned by the city.

(K.S.A. 41-719)

§ 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. Ch. 27.

(K.S.A. 41-719)

§ 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, 41-719)

§ 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.

ARTICLE 2: ENHANCED CEREAL MALT BEVERAGES

Section

- 3-201 Definition
- 3-202 License issued by the city
- 3-203 License required of retailer
- 3-204 Application
- 3-205 License application procedures
- 3-206 License granted; denied
- 3-207 License to be posted
- 3-208 License, disqualification
- 3-209 Restriction upon location
- 3-210 License fee
- 3-211 Suspension of license
- 3-212 License suspension/revocation by governing body
- 3-213 Same; appeal
- 3-214 Change of location
- 2-215 Wholesalers and/or distributors
- 2-216 Business regulations
- 2-217 Prohibited conduct on premises
- 2-218 Sanitary conditions required

Cross-reference:

Special Event CMB Licenses, see Ch. III, Art. 8

§ 3-201 DEFINITION.

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

ENHANCED CEREAL MALT BEVERAGE. Cereal malt beverage as that term is defined in K.S.A. 41-2701, and amendments thereto, and such term shall include beer containing not more than 6% alcohol by volume when such beer is sold by a retailer licensed under the Kansas Cereal Malt Beverage Act. (Ord. 426, passed 4-1-2019)

§ 3-202 LICENSE ISSUED BY THE CITY.

The cereal malt beverage license issued by the city pursuant to this article, authorizes the sale of enhanced cereal malt beverage as defined in § 3-201, by those retailers in compliance with this article and other laws and regulations that may apply.

(Ord. 426, passed 4-1-2019)

§ 3-203 LICENSE REQUIRED OF RETAILER.

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

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

(Ord. 426, passed 4-1-2019)

§ 3-204 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

(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.

(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 article. The Chief shall report to the City Clerk 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.

(Ord. 426, passed 4-1-2019)

§ 3-205 LICENSE APPLICATION PROCEDURES.

(a) All applications for a new and renewed enhanced 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 record check on all applicants and the Fire Department and Health Department will inspect the premises. 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 an enhanced cereal malt beverage license in the city shall attend the governing body meeting when the application for a new license will be considered.

(Ord. 426, passed 4-1-2019)

§ 3-206 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.

(Ord. 426, passed 4-1-2019)

§ 3-207 LICENSE TO BE POSTED.

Each license shall be posted in a conspicuous place in the place of business for which the license is issued.

(Ord. 426, passed 4-1-2019)

§ 3-208 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 Coffey 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; and

(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.

(Ord. 426, passed 4-1-2019)

§ 3-209 RESTRICTION UPON LOCATION.

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

(b) Provisions shall not apply to any establishment holding a private club license issued by the state.
(Ord. 426, passed 4-1-2019)

§ 3-210 LICENSE FEE.

(a) The rules and regulations regarding license fees shall be as follows:

(1) *General retailer.* For each place of business selling enhanced cereal malt beverages at retail, \$50 per calendar year; and

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

(b) 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.

(Ord. 426, passed 4-1-2019)

§ 3-211 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 article or other laws pertaining to enhanced 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.

(Ord. 426, passed 4-1-2019)

§ 3-212 LICENSE SUSPENSION/REVOCAION BY GOVERNING BODY.

The governing body of the city, upon five days' written notice, to a person holding a license to sell enhanced cereal malt beverages shall 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) If a licensee has fraudulently obtained the license by giving false information in the application therefor;

(b) If the licensee has violated any of the provisions of this section or has become ineligible to obtain a license under this section;

(c) Drunkenness of a person holding such license, drunkenness of a licensee's manager or employee while on duty and while on the premises for which the license is issued, or for a licensee, his or her manager or employee permitting any intoxicated person to remain in such place selling enhanced cereal malt beverages;

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

(e) For permitting any gambling in or upon any premises licensed;

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

(g) For the employment of any person under the age established by the state for employment involving dispensing enhanced cereal malt beverages;

(h) For the employment of persons adjudged guilty of a felony or of a violation of any law relating to intoxicating liquor;

(i) For the sale or possession of, or for permitting the use or consumption of alcoholic liquor within or upon any premise licensed;

(j) The nonpayment of any license fees;

(k) If the licensee has become ineligible to obtain a license; and

(l) The provisions of divisions (f) and (i) above shall not apply if such place of business is also currently licensed as a private club.

(Ord. 426, passed 4-1-2019)

§ 3-213 SAME; APPEAL.

The licensee, within 20 days after the order of the governing body revoking any license, may appeal to the District Court of Coffey County and the District Court shall proceed to hear such appeal as though such Court had original jurisdiction in the matter. Any appeal taken shall not suspend the order of revocation of the license of any licensee, nor shall any new license be issued to such person or any person acting for or on his or her behalf, for a period of six months thereafter.

(Ord. 426, passed 4-1-2019)

§ 3-214 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 \$50. 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.

(Ord. 426, passed 4-1-2019)

§ 3-215 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 enhanced cereal malt beverages within the city, to persons authorized 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.

(Ord. 426, passed 4-1-2019)

§ 3-216 BUSINESS REGULATIONS.

It shall be the duty of every licensee to observe the following regulations.

(a) The place of business licensed and operating shall at all times have a front and rear exit unlocked when open for business.

(b) The premises and all equipment used in connection with such business shall be kept clean and in a sanitary condition and shall at all times be open to the inspection of the police and health officers of the city, county and state.

(c) Except as provided by division (d) below, no enhanced cereal malt beverages may be sold or dispensed between the hours of 12:00 midnight and 6:00 a.m., or consumed between the hours of 12:30 a.m., and 6:00 a.m., or on Sunday, except in a place of business which is licensed to sell cereal malt beverage for consumption on the premises, which derives not less than 30% of its gross receipts from

the sale of food for consumption on the licensed premises; closing hours for clubs shall conform to K.S.A. 41-2614 and amendments thereto.

(d) Enhanced cereal malt beverages may be sold at any time alcoholic liquor is allowed by law to be served on premises which are licensed pursuant to K.S.A. 41-2601 et seq. and amendments thereto, and licensed as a club by the State Director of Alcoholic Beverage Control.

(e) The place of business shall be open to the public and to the police at all times during business hours, except that premises licensed as a club under a license issued by the State Director of Alcoholic Beverage Control shall be open to the police and not to the public.

(f) It shall be unlawful for any licensee or agent or employee of the licensee to become intoxicated in the place of business for which such license has been issued.

(g) No licensee or agent or employee of the licensee shall permit any intoxicated person to remain in the place of business for which such license has been issued.

(h) No licensee or agent or employee of the licensee shall sell or permit the sale of enhanced cereal malt beverage to any person under 21 years of age.

(i) No licensee or agent or employee of the licensee shall permit any gambling in the place of business for which such license has been issued.

(j) No licensee or agent or employee of the licensee shall permit any person to mix alcoholic drinks with materials purchased in said place of business or brought in for such purpose.

(k) No licensee or agent or employee of the licensee shall employ any person under 18 years of age in dispensing enhanced cereal malt beverages. No licensee shall employ any person who has been judged guilty of a felony.

(Ord. 426, passed 4-1-2019)

§ 3-217 PROHIBITED CONDUCT ON PREMISES.

The following conduct by an enhanced cereal malt beverage licensee, manager or employee of any licensed enhanced 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/female's 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) The term ***PREMISES*** means the premises licensed by the city as an enhanced 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.
(Ord. 426, passed 4-1-2019)

§ 3-218 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.

(Ord. 426, passed 4-1-2019)

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 State 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.

§ 3-302 OCCUPATIONAL TAX.

There is hereby levied a biennial occupation tax of \$500 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)

§ 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.

§ 3-304 HOURS OF SALE.

No person shall sell at retail any alcoholic liquor:

(a) On any Sunday;

(b) On Decoration Day or Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day; or

(c) Before 9:00 a.m. or after 11:00 p.m. on any day when the sale thereof is permitted.
(K.S.A. 41-712)

§ 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)

§ 3-306 RESTRICTIONS ON LOCATION.

(a) 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.

(b) The restriction of division (a) does not apply to a retailer, microbrewery, microdistillery or farm winery to be located within the core commercial district.
(K.S.A. 41-710)

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.

§ 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 \$250 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.

§ 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 6:00 a.m. on any day. (Note: 6:00 a.m. is the earliest

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a private club can serve alcoholic liquor; however, a city can set a later start time. Prior to 2018 the start time could not be before 9:00 a.m.)

(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)

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.

§ 3-502 LICENSE FEE.

(a) There is hereby levied a biennial license fee in the amount of \$50 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.

§ 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 6:00 a.m. on any day. (Note: 6:00

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a.m. is the earliest a drinking establishment can serve alcoholic liquor; however, a city can set a later start time. Prior to 2018 the start time could not be before 9:00 a.m.)

(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)

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 24 hours 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 \$100 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) (1) 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 30 days before the event.

(2) Written application for the local temporary permit shall be made to the City Clerk and shall clearly state:

- (A) The name of the applicant;
- (B) The group for which the event is planned;
- (C) The location of the event;

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(D) The date and time of the event; and

(E) 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.

(K.A.R. 14-23-5)

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

ARTICLE 8: SPECIAL EVENT CMB PERMITS

Section

3-801 Special event CMB permits

§ 3-801 SPECIAL EVENT CMB PERMITS.

(a) *Permit required.* It shall be unlawful for any person to sell or serve any CMB (cereal malt beverages) at any special event within the city without first obtaining a local special event permit from the City Clerk.

(K.S.A. 41-2703)

(b) *Permit fee.*

(1) There is hereby levied a special event permit fee in the amount of \$100 on each group or individual, which fee shall be paid before the event begins. Such fee shall be in addition to the \$25 fee to be remitted to the Division of Alcohol Beverage Control.

(2) 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)

(c) *City special event permit.*

(1) (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 21 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.

(B) In addition to any other information required, the applicant shall provide the following:

(i) The name of the applicant;

(ii) The group for which the event is planned;

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(iii) The location of the event;

(iv) The date and time of the event; and

(v) Any anticipated need for police, fire or other municipal services.

(2) 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.

(3) 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.

(d) *Permit regulations.*

(1) 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.

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

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

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

(5) 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)

(Ord. 404, passed 11-13-2012)

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 contacts 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**

ARTICLE 1: FIRE LIMITS

Section

4-101 Fire limits established

§ 4-101 FIRE LIMITS ESTABLISHED.

(a) The following shall be and are hereby declared to be the fire limits of the city: the east half of Blocks 38, 45 and 52 and the west half of Blocks 53 and 46.

(b) Every building hereafter erected or enlarged within the fire limits shall be enclosed on all sides with walls constructed of stone, brick, tile, terra cotta or any other non-combustible, fire-proof material designed and installed in such a manner as to contain a fire located within for a minimum period of two hours, except as otherwise proved by this section

(c) Small frame outhouses not exceeding 150 square feet in area and eight feet in height and temporary one-story frame buildings for use of builders may be built within the fire limits; provided, however, that, such buildings shall not be located within ten feet of any other building. One-story buildings having metal walls on metal supports and not exceeding 2,500 square feet in area may be built within the fire limits; provided, however, that, such buildings shall not be located within ten feet of any other building or adjoining property line.

(d) No frame building shall be moved from without to within the fire limits. For the purpose of this section, a building shall be classed as frame when the exterior walls or portions thereof are of wood; also, a building with wooden framework veneered with brick, stone, terra-cotta, tile or concrete, or wood covered with plaster, stucco or sheet metal shall be classed as a frame building.

(e) Any frame building within the fire limits, which may hereafter be damaged by fire, decay or otherwise to an amount greater than 50%, exclusive of its foundation shall not be repaired or rebuilt, but shall be removed.

(f) All buildings hereafter erected within the fire limits shall have the roof, top and sides of all roof structures, including dormer windows and mansard roofs, covered with incombustible material. No existing wooden shingle roof within the fire limits shall be renewed or repaired with other than incombustible roof covering.

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(g) Any person, firm or corporation violating any of the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$5, nor more than \$25, for each offense. Each day that any of the provisions of this section shall be violated shall constitute a separate offense.

(Ord. 291, passed 6-22-1971; Ord. 298, passed 12-3-1990)

ARTICLE 2: BUILDING CODE

Section

- 4-201 Definitions
- 4-202 International Building 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.

BUILDING OFFICIAL. The Code Enforcement Officer or other employee or official or his or her authorized designee.

CORPORATION COUNSEL. The City Attorney of the City of LeRoy.

MUNICIPALITY. The City of LeRoy, Kansas.

§ 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 and occupancy, location and maintenance of buildings and structures, the International Building Code, 2015 Edition, as recommended by the International Conference of Building 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 International Building Code, 2015 Edition, shall be marked or stamped “Official Copy as Incorporated by the Code of the City of LeRoy”, 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.

§ 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.

§ 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 Code Enforcement Officer or other employee or official. The Code Enforcement Officer or other employee or official 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 Code Enforcement Officer or other employee or official shall prepare such application, permit, inspection and record forms as may be required for the purposes of the article. The Code Enforcement Officer or other employee or official 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 Code Enforcement Officer or other employee or official may assume the responsibilities of or appoint some qualified officer or employee of the city 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 article;

(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 article 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 article.

§ 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) (1) 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.

(2) This application shall, among other things, disclose the following:

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

(B) The location of the building or structure;

- (C) The building work proposed;
- (D) The outside dimensions of the building by floors and dimensions of the basement (if any);
- (E) The class of occupancy;
- (F) The class of construction;
- (G) The kind of materials to be used for walls, floors, ceilings, roofs and foundations;
- (H) The estimated cost of the work;
- (I) The date work will commence;
- (J) Expected date of completion;
- (K) Name and address of contractor or contractors doing the work; and
- (L) 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 water-proofing, 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 State 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) through (a)(8), and amendments there to; 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 State 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. pt. 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 \$25, 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 \$2,000. 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 or 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 \$100, and an inspection fee of \$50, 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.

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

***BUILDER* or *BUILDING CONTRACTOR*.**

(1) Any person, firm, co-partnership, corporation, association, or any combination thereof, whether a resident or not of the city:

(A) 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;

(B) 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

(C) 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.

(2) A ***BUILDER*** or ***BUILDING CONTRACTOR*** shall not mean or include:

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

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

(C) 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;

(D) 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

(E) Any person engaged in construction work not involving a total cost of greater than \$2,000, 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 nonresident), the kind of contracting work engaged in (as general contracting, roofing, siding, masonry, plastering, lathing, excavating, water-proofing, 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, the sum of \$25;

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

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

(D) Sign hangers and panel posters, the sum of \$10; and

(E) Roofing contractor, the sum of \$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 \$50,000, 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 or 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) (1) 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.

(2) 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:

(A) Misrepresentation of a material fact by applicant in obtaining a license;

(B) Use of license to obtain a building permit for another;

(C) Failure or neglect to observe conditions of permit authorizing encumbering of streets or sidewalks for safety of public;

(D) Performance of any building or construction work without a permit where one is required by law; or

(E) 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.

§ 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.

§ 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.

ARTICLE 3: ELECTRICAL CODE

Section

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- 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.

(1) 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.

(2) ***ELECTRICAL CONSTRUCTION*** shall not be held to mean or include any of the following:

(A) 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;

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

(C) 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.

§ 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 through 12-3012. One copy shall be marked or stamped “Official Copy as Incorporated by the Code of the City of LeRoy”, 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.

§ 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.

§ 4-304 BUILDING OFFICIAL; AUTHORITY.

The Code Enforcement Officer or other employee or official or his or her authorized designee shall be responsible for the administration and enforcement of this article and appointment of an Electrical Inspector in accordance with § 4-204, which shall apply in a like manner to this article.

§ 4-305 ELECTRICAL INSPECTOR; APPOINTMENT.

The Code Enforcement Officer or other employee or official 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 article;

(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 article 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 article.

§ 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) (1) 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.

(2) This application shall, among other things, disclose the following:

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

(B) The location of the building or structure;

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- (C) The electrical construction work proposed;
- (D) The class of occupancy;
- (E) The class of electrical construction;
- (F) The kind of materials to be used;
- (G) The estimated cost of the work;
- (H) The date work will commence;
- (I) Expected date of completion;
- (J) Name and address of electrical contractor or contractors doing the work; and
- (K) 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 \$25, 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 \$250. 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 \$100, and an inspection fee of \$50, 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 nonresident), 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 of \$25; 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 \$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 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 of \$50,000 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 or 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) (1) 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.

(2) 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:

(A) Misrepresentation of a material fact by applicant in obtaining a license;

(B) Use of license to obtain an electrical permit for another;

(C) Failure or neglect to observe conditions of permit authorizing encumbering of streets or sidewalks for safety of public;

(D) Performance of any electrical construction work without a permit where one is required by law; or

(E) 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.

§ 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.

§ 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.

§ 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.

ARTICLE 4: PLUMBING AND GAS-FITTING CODE

Section

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- 4-402 Uniform Plumbing Code incorporated
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§ 4-401 DEFINITION.

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

PLUMBING. 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.

§ 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 gasfitting, 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, 2012 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 LeRoy", 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.

§ 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.

§ 4-404 BUILDING OFFICIAL; AUTHORITY.

The Code Enforcement Officer or other employee or official or his or her authorized designee 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 Code Enforcement Officer or other employee or official may assume the responsibilities of or appoint some qualified officer or employee of the city 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 article;

(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 article 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 article.

§ 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) (1) 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.

(2) This application shall, among other things, disclose the following:

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

(B) The location of the building or structure;

- (C) The plumbing work proposed;
- (D) The class of occupancy;
- (E) The class of construction;
- (F) The kind of materials to be used;
- (G) The estimated cost of the work;
- (H) The date work will commence;
- (I) Expected date of completion;
- (J) Name and address of plumber, plumbing contractor or contractors doing the work; and
- (K) 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 \$25, 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 \$250. 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 \$100, and an inspection fee of \$50 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) For the purpose of this article, the following definition shall apply unless the context clearly indicates or requires a different meaning.

PLUMBER or PLUMBING CONTRACTOR.

(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 gasfitter 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 nonresident), 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 of \$25; and

(B) Limited plumber or plumbing contractor, who shall qualify to engage in not more than one kind of plumbing work, the sum of \$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 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 of \$50,000 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 or 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) (1) 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.

(2) 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:

- (A) Misrepresentation of a material fact by applicant in obtaining a license;
- (B) Use of license to obtain a plumbing permit for another;
- (C) Failure or neglect to observe conditions of a permit authorizing encumbering of streets or sidewalks for safety of public;
- (D) Performance of any plumbing work without a permit where one is required by law; or
- (E) 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.

§ 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.

§ 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.

§ 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.

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 Code Enforcement Officer or other employee or official or his or her authorized designee 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.

§ 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)

§ 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)

§ 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.

§ 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.

§ 4-506 CONTRACTOR; LICENSE REQUIRED; FEE.

The provisions of §§ 4-219 through 4-225 shall apply in a like manner to this article.

§ 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.

§ 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 their 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)

§ 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 lineman 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)

§ 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)

§ 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.

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)

§ 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 Code Enforcement Officer or other employee or official or his or her authorized representative.

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)

§ 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.

§ 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.

§ 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)

§ 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)

§ 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.

§ 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.

§ 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.

§ 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.

§ 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 monies 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)

§ 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)

§ 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.

§ 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.

CHAPTER V: BUSINESS REGULATIONS

Article

- 1. GENERAL REGULATIONS AND LICENSES**
- 2. SOLICITORS, CANVASSERS, PEDDLERS**
- 3. FAIR HOUSING**

ARTICLE 1: GENERAL REGULATIONS AND LICENSES

Section

- 5-101 License required
- 5-102 Application for license
- 5-103 Not assignable or transferable
- 5-104 License period; duration
- 5-105 Exemption of farmers
- 5-106 License fees
- 5-107 Same; when payable; time period
- 5-108 Payment of fees; receipt
- 5-109 Contents of license
- 5-110 Record
- 5-111 Display of license
- 5-112 Retailers' license tax

§ 5-101 LICENSE REQUIRED.

It shall be unlawful for any person, firm or corporation, either as principal or agent or employee, to conduct, pursue, carry on or operate any calling, trade, profession or occupation in the city without first paying the license fee prescribed and procuring such a license from the City Clerk whenever the procuring of the license is required by the city.

§ 5-102 APPLICATION FOR LICENSE.

Every person, firm or corporation desiring to do business in the city shall apply to the City Clerk for a license to operate such business, and in the case of new licenses, shall appear before the governing body before the commencement of business and issuance of the license. Upon approval by the governing body, the City Clerk shall issue to the applicant a license that shall be signed by the City Clerk. It shall be the duty of the City Clerk to pay over the amount so collected on each license issued to the City Treasurer of the city.

§ 5-103 NOT ASSIGNABLE OR TRANSFERABLE.

No license granted by the city shall be assignable or transferable; nor shall such license authorize any person to do business or act under it but the person named therein, nor at more than one place. There shall be no refunds, except as specifically provided.

§ 5-104 LICENSE PERIOD; DURATION.

Unless otherwise provided, licenses shall commence and endure from January 1 and expire on December 31 of the same year, except that all semi-annual licenses issued as provided in this chapter shall expire on June 30 or December 31, next following the date of their issuance.

§ 5-105 EXEMPTION OF FARMERS.

No producer or grower, or his or her agents or employees, selling in the city, farm or garden products or fruits grown by him or her in the state shall be required to pay any license fee or occupation tax imposed by any law of this city, and he or she, his or her agents or employees, are hereby exempt from the payment of any such fees or taxes, or the securing of a license.

(K.S.A. 12-1617)

§ 5-106 LICENSE FEES.

Unless otherwise provided, the annual license fee for each occupation, business or profession shall be as shown in the following schedule:\$25.

§ 5-107 SAME; WHEN PAYABLE; TIME PERIOD.

(a) All license fees shall be due and payable before the commencement of a trade, occupation, business or profession in which license fees are required.

(b) No license shall be issued until the fee is paid.

(c) Licenses shall be renewed on or before the expiration date of the current licenses.

(d) If the license prescribed is for an annual, quarterly, monthly, weekly or daily period, the license shall not be issued for any part or fraction of the year, quarter, month, week or day, respectively.

(e) The license for a day shall expire at midnight.

§ 5-108 PAYMENT OF FEES; RECEIPT.

The City Clerk shall, upon payment of any license fee specified, give a receipt therefor stating the amount paid, the nature of the licenses issued, for what time, and to whom issued, and if possible, the exact location where the business is to be carried on, and the kind of business.

§ 5-109 CONTENTS OF LICENSE.

Unless otherwise provided, all licenses shall be dated on the date of their issue, and shall state the name of the licensee, the kind of business he or she desires to engage in and the location thereof, the amount paid, and time the license shall expire; and the person having such license shall be authorized to carry on the business therein named.

§ 5-110 RECORD.

The City Clerk shall keep a record of the name of each person licensed, his or her address, the date of the license, the purpose in which it is granted, the amount paid therefor, and the time the same shall expire and within 24 hours after any license has expired, the City Clerk shall notify the Chief of Police of such expiration, unless the same shall have been renewed.

§ 5-111 DISPLAY OF LICENSE.

All persons doing business in a permanent location are required to have their license conspicuously displayed in their place of business, and all persons to whom licenses are issued not having a permanent place of business are required to carry their licenses with them, and any licensee shall present the license for inspection when requested to do so by any citizen or officer of the city.

§ 5-112 RETAILERS' LICENSE TAX.

(a) The majority of the electors voting thereon approved at the general election held on April 7, 2009, the special question, levying of a retailers' sales tax in the city for the purpose of providing additional revenue for an adequate level of public services within the city, in the amount of 1%, such tax to take effect on October 2, 2009.

(b) Except as may otherwise be provided by law, such tax shall be identical in its applications and exemptions therefrom to the Kansas Retailers Sales Tax Act and all laws and administrative rules and regulations of the Kansas Department of Revenue relating to the state retailers' sales tax and shall apply to such city retailers' sales tax insofar as such laws and regulations may be made applicable. The services of the Department of Revenue shall be utilized to administer, enforce and collect such tax.
(Ord. 384, passed 5-4-2009)

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 a 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.

§ 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 may 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 of \$25 per each day for peddlers, solicitors or peddlers, or portion thereof, that the licensee shall operate within the city limits.

(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 \$25 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) (Ord. 207, passed 12-6-1967)

§ 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:

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- (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.

ARTICLE 3: FAIR HOUSING

Section

- 5-301 Policy
- 5-302 Definitions
- 5-303 Discrimination in the sale or rental of housing
- 5-304 Discrimination in the financing of housing
- 5-305 Interference, coercion or intimidation
- 5-306 Exemptions
- 5-307 Administration
- 5-308 Enforcement
- 5-309 Penalty

§ 5-301 POLICY.

It is the policy of the city to provide, within constitutional limitations and the laws of the state, fair housing opportunity throughout the city.
(Ord. 287, passed 2-6-1989)

§ 5-302 DEFINITIONS.

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

DWELLING. Any building, structure, or portion thereof, which is occupied as, or designed or intended for any occupancy as, a residence by one or more families, and shall by implication include any vacant land offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.

FAIR HOUSING OPPORTUNITY. The absence of discriminatory housing activity and unlawful practice as delineated in §§ 5-303 through 5-305 of this article.

RENT. Includes any lease, sublease, the “letting of property” and any other such activity which grants for a consideration the right to occupy premises owned by another.
(Ord. 287, passed 2-6-1989)

§ 5-303 DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING.

Except as exempted elsewhere in this article, it shall be unlawful:

(a) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion or national origin;

(b) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion or national origin;

(c) To make, print or publish, or cause to be made, printed or published any notice, statement or advertisement, which indicates any preference, limitation or discrimination based on race, color, religion or national origin in the sale or rental of a dwelling;

(d) To represent to any person that any dwelling is not available for inspection, sale or rental, when, in fact, said dwelling is available, because of race, color, religion or national origin of the person involved; and

(e) For profit, to induce or attempt to induce any person to sell or rent any dwelling through use of representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color religion or national origin.

(Ord. 287, passed 2-6-1989)

§ 5-304 DISCRIMINATION IN THE FINANCING OF HOUSING.

It shall be unlawful for any lending association, insurance company or other corporation, or association, whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to any person for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling, or to discriminate against said person in the fixing of the amount, interest rate, duration or other terms or conditions of such loan or other financial assistance because of the race, color, religion or national origin of said person, or persons associated with him or her.

(Ord. 287, passed 2-6-1989)

§ 5-305 INTERFERENCE, COERCION OR INTIMIDATION.

It shall be unlawful to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having

aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by other sections of this article.

(Ord. 287, passed 2-6-1989)

§ 5-306 EXEMPTIONS.

(a) Nothing in this article shall prohibit a generally recognized religious organization, or any non-profit institution or organization operated, supervised or controlled by or in conjunction with a generally recognized religious organization, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in religion is restricted on the basis of race, color or national origin. Nor shall anything in this article prohibit a private club, not in fact open to the public, which is incidental to its primary purpose, from providing lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members, or from giving preference to its members; provided, membership in such club is not restricted on account of race, religion or national origin.

(b) Single-family houses sold or rented by an owner shall be exempt from the conditions of this article; provided that, the owner does not own more than three such single-family houses at any one time; and, provided that, said owner does not own any interest in the sale or rental of any additional houses; provided further that, in the case of the sale of any such house by an owner nor residing in the house, or who was not the most recent resident of said house, the exemption shall apply only to one such sale within any 24-month period; provided further that, said sale or rental is made without the use in any manner of the facilities of any real estate broker, agent or salesperson or any person in the business of selling or renting dwellings.

(c) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of the living quarters as his or her residence.

(Ord. 287, passed 2-6-1989)

§ 5-307 ADMINISTRATION.

The authority and responsibility for administering this article shall be the City Council, or their officially appointed delegate who may be an employee of the city or a board of such employees. The Council shall by rule prescribe such rights of appeal from decisions of the delegated employees to other employees or to the elected officials of the city, as shall be appropriate and in accordance with the law. The City Council shall provide such educational and conciliatory activities as will further the purposes of this article, including conferences of persons in the housing industry, with the intent of working out programs of voluntary compliance and of enforcement.

(Ord. 287, passed 2-6-1989)

§ 5-308 ENFORCEMENT.

(a) Any person who claims to have been injured by a discriminatory housing practice, or who believes that he or she will be irrevocably injured by a discriminatory housing practice that is about to occur (hereinafter "person aggrieved"), may file a complaint with the City Clerk. Complaints shall be in writing and shall contain such information and be in such form as the City Council requires. Upon receipt of such a complaint, the City Clerk shall furnish a copy of the same to the person or persons who allegedly committed or are about to commit the alleged discriminatory housing practice. Within 30 days after receiving a complaint, or within 30 days after the expiration of any period of reference under division (c), the City Council shall investigate the complaint and give notice in writing to the person aggrieved whether they intend to resolve it. If the City Council intends to resolve the complaint(s), it shall proceed to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation and persuasion. Nothing said or done in the course of such informal endeavor may be made public without the written consent of the persons concerned. Any employee of the City Council who shall make public any information in violation of this provision shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 or imprisoned not more than one year. Complaints may also be filed with State of Kansas Civil Rights Commission and the United States of America Civil Rights Commission.

(b) A complaint under division (a) above shall be filed within 180 days after the alleged discriminatory housing practice occurred. The complaint shall be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. Complaints may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him and with the leave of the Council, which shall be granted whenever it would be reasonable and fair to do so, may amend his or her answer at any time. Both complaints and answers shall be verified.

(c) If, within 30 days after a complaint is filed with the City Clerk, the State Civil Rights Commission or United States of America Civil Rights Commission, the City Council has been unable to obtain voluntary compliance with this Ordinance, the person aggrieved may, within 30 days thereafter, file a complaint with the Secretary of the Department of Housing and Urban Development. The City Council will assist in this filing.

(d) If the City Council has been unable to obtain voluntary compliance within 30 days of the complaint, the person aggrieved may, within 30 days thereafter, commence a civil action in any appropriate court, against the respondent named in the complaint, to enforce the rights granted or protected by this article, insofar as such rights related to the subject of the complaint. If the court finds that a discriminatory housing practice has occurred, or is about to occur, the court may enjoin the respondent from engaging in such practice or order such affirmative action as may be appropriate.

(e) In any proceeding brought pursuant to this section, the burden of proof shall be on the complainant.

(f) Whenever an action filed by an individual shall come to trial, the City Council shall immediately terminate all efforts to obtain voluntary compliance.
(Ord. 287, passed 2-6-1989)

§ 5-309 PENALTY.

Any person who has intimidated any other person from the exercise or enjoyment of his or her rights under § 5-307 of this chapter, shall be subject to a fine of not more than \$1,000, or imprisoned not more than one year, or both.

(Ord. 287, passed 2-6-1989)

CHAPTER VI: ELECTIONS

Article

1. CITY ELECTIONS

ARTICLE 1: CITY ELECTIONS

Section

- 6-101 Conduct of election
- 6-102 Hours of voting
- 6-103 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.)

§ 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, 25-106)

§ 6-103 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.

(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)

CHAPTER VII: FIRE

Article

- 1. FIRE DEPARTMENT**
- 2. FIRE PREVENTION**
- 3. FIREWORKS**

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 False alarm

§ 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, an Assistant Fire Chief and not less than ten nor more than 25 firefighters. Members of the Fire Department shall be appointed by the Mayor and confirmed by the City Council.

§ 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.

§ 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 their first meeting in October of each year.

§ 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.

§ 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.

§ 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.

§ 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.

§ 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.

§ 7-109 RESERVED.

§ 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.

§ 7-111 FALSE ALARM.

It shall be unlawful for any person to knowingly make or sound or cause to be made or sounded, or by any other means, any false alarm.

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, 2015 Edition, 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 this article shall take effect, the provisions thereof shall be controlling within the limits of the city.

§ 7-202 SAME; ENFORCEMENT.

The code hereby adopted shall be enforced by the Chief of the Fire Department.

§ 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 LeRoy.

(b) All sections of the Uniform Fire Code relating to fireworks are hereby deleted in their entirety.

§ 7-204 OPEN BURNING.

(a) *Burning prohibition.* Within the corporate limits of the city, all outdoor open burning shall be prohibited on October 30 through November 1, inclusive, each year, except as permitted in division (b) below.

(b) *Exceptions.* Open outdoor burning otherwise prohibited by division (a) above shall be permitted under the following conditions:

(1) Any person or persons who wish to conduct any outdoor open burning operations shall, prior to commencing the burning, contact the Coffey County Fire District #1, LeRoy Station Fire Chief, or his or her designee, and provide information relating to the location of the burn site, nature of material to be burned, the name and telephone number of the responsible party and the estimated time when the burning is to begin and end. This person shall also be responsible for notifying the Fire Chief or his or her designee when the burning is completed;

(2) The Fire Chief or his or her designee shall have the authority to deny any person permission to conduct outside open burning based on the current or expected weather conditions, the availability of fire suppression and support resources or other conditions which may create an unreasonable risk to the public safety;

(3) All outdoor open burning shall be conducted in accordance with the State Department of Health and Environment guidelines, rules and regulations; and

(4) When required by law, nothing in this section shall relieve any property owner or other responsible parties from the obligation of obtaining the proper permit from the State Department of Health and Environment.

(c) *Penalties.* Any person burning in violation of the prohibition set forth in this section shall be deemed to have committed a Class C misdemeanor, punishable by a fine not to exceed \$500, confinement in the County Jail for a period not to exceed 30 days, or both.
(Ord. 340, passed 10-2-2000)

§ 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.

§ 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.

§ 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.

§ 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.

§ 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.

§ 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.

§ 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.

§ 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.

§ 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 nonresident 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.

ARTICLE 3: FIREWORKS

Section

- 7-301 Fireworks defined
- 7-302 Fireworks prohibited
- 7-303 Same: exceptions; discharges
- 7-304 Same: exception; sale of fireworks
- 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 streets and 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.

§ 7-302 FIREWORKS PROHIBITED.

(a) Except as provided in §§ 7-303 to 7-306, it shall be unlawful for any person to keep, store, display for sale, fire, discharge or explode any fireworks.

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(b) Nothing in this article shall be construed as applying to:

- (1) Toy paper caps containing not more than 0.25 of a grain of explosive composition per cap;
- (2) The manufacture, storage, sale or authorized use of signals necessary for the safe operation of railroads or other classes of public or private transportation;
- (3) The military or naval forces of the United States or of this state while in the performance of official duty;
- (4) Law enforcement officers while in the performance of official duty; or
- (5) The sale or use of blank cartridges for ceremonial, theatrical or athletic events.

§ 7-303 SAME: EXCEPTIONS; DISCHARGES.

(a) Section 7-302 shall not apply to the firing or discharge of fireworks in the city between the hours of 8:00 a.m. and 12:00 midnight on June 27 through July 5.

(b) The governing body of the city may, in its discretion, grant permission at any time for the public display of fireworks by responsible individuals or organizations when such display or displays shall be of such a character and so located, discharged and fired as shall not be a fire hazard or endanger persons or surrounding property.

(c) It shall be unlawful for any person, firm or corporation to give any public display of fireworks without having first obtained a permit thereof.

§ 7-304 SAME: EXCEPTION; SALE OF FIREWORKS.

Any person who has first obtained a valid permit to sell fireworks within the city may do so between the hours of 8:00 a.m. and 12:00 midnight commencing June 27 through July 5 of each year.

§ 7-305 PERMIT FOR SALE OF FIREWORKS REQUIRED; FEE; ISSUANCE.

(a) It shall be unlawful for any person to sell, display for sale, offer to sell or give away any type of fireworks within the city without first paying a fee of \$25 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) (1) 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.

(2) 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) (1) 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 \$500,000, 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.

(2) The application for the permit shall clearly state:

(A) The name of the applicant;

(B) The group for which the display is planned;

(C) The location of the display;

(D) The date and time of the display;

(E) The nature or kind of fireworks to be used;

(F) The name of the person, firm or corporation that will make the actual discharge of the fireworks; and

(G) 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.

§ 7-308 DISCHARGE ON STREETS AND PUBLIC PROPERTY PROHIBITED.

It shall be unlawful for any person to discharge, ignite or fire any fireworks upon any public street, alley or avenue or in any park or public place within the city.

§ 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.

§ 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.

§ 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.

§ 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.

§ 7-315 BANNING FIREWORKS.

The Mayor or Police Chief 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.

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**
- 8. SOUND AMPLIFICATION SYSTEMS**

ARTICLE 1: BOARD OF HEALTH

[Reserved]

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)

§ 8-202 PUBLIC OFFICER.

The Council shall designate a public officer to be charged with the administration and enforcement of this article.

(Ord. 377, passed - -)

§ 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.

§ 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.

§ 8-205 ORDER OF VIOLATION.

(a) (1) 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.

(2) 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.

(K.S.A. 12-1617e)

§ 8-206 SAME; CONTENTS.

(a) The order shall state the condition(s) that is (are) in violation of § 8-201. 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)(1) above, to request a hearing before the governing body or its designated representative of the matter as provided by § 8-209.

(b) 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)

§ 8-207 FAILURE TO COMPLY; PENALTY.

(a) Should the person, corporation, partnership or association 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, corporation, partnership or association and, upon conviction of any violation of provisions of § 8-201, be fined in an amount not to exceed \$500, or be imprisoned not to exceed 30 days or be both fined and imprisoned.

(b) Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense.

§ 8-208 ABATEMENT.

(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. 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.

(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 nonresident, notice provided by this section shall be given by telephone communication or first-class mail.

§ 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.

§ 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. 12-1617e)

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”.

§ 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.

§ 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.

§ 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.

§ 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.

§ 8-2A06 PUBLIC OFFICER.

The City Council shall designate a public officer to be charged with the administration and enforcement of this article.

§ 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.

§ 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.

§ 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)

§ 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 \$50 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.

§ 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 nonresident, notice provided by this section shall be given by telephone communication or first-class mail.

§ 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.

§ 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.

§ 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.

§ 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.

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

§ 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.

§ 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) (1) A **MOTOR VEHICLE NUISANCE** is 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 city ordinance; or incapable of moving under its own power; or in a junked, wrecked or inoperable condition.

(2) Any one of the following conditions shall raise the presumption that a vehicle is junked, wrecked or inoperable:

(A) Absence of a current registration plate upon the vehicle;

(B) Placement of the vehicle or parts thereof upon jacks, blocks or other supports; or

(C) 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 article shall not apply to:

(1) Any motor vehicle that 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)(3) shall be construed to authorize the maintenance of a public nuisance.

§ 8-304 PUBLIC OFFICER.

The City Council shall designate a public officer to be charged with the administration and enforcement of this article.

§ 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.

§ 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.

§ 8-307 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 § 8-303 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.

(K.S.A. 12-1617e)

§ 8-308 SAME; CONTENTS.

(a) The order shall state the condition(s) which is (are) in violation of § 8-303.

(b) The order shall also inform the person, corporation, partnership or association that:

(1) He, she or they shall have ten days from receipt of the order to abate the condition(s) in violation of § 8-303; or

(2) He, she or they have ten days from receipt of the order to request a hearing before the governing body or its designated representative 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.

§ 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 in an amount not to exceed \$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.

§ 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 an order 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) (1) 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.

(2) A copy of the resolution shall be served upon the person in violation in one of the following ways:

(A) Personal service upon the person in violation;

(B) Service by certified mail, return receipt requested; or

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

(3) 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.

§ 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.

§ 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 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 matter provided in § 8-310.

§ 8-313 COSTS ASSESSED.

If the city abates or removes the nuisance pursuant to § 8-310, 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.

ARTICLE 4: WEEDS

Section

- 8-401 Weeds to be removed
- 8-402 Definitions
- 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
- 8-408 Real estate exemptions
- 8-409 Exemption requirements

§ 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 are hereinafter defined are hereby declared a nuisance and are subject to abatement as hereinafter provided.

(Ord. 432, passed 6-1-2020)

§ 8-402 DEFINITIONS.

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

CALENDAR YEAR. That period of time beginning January 1 and ending December 31 of the same year.

WEEDS. As used herein, means any of the following:

- (1) Brush and woody vines shall be classified as weeds;
- (2) Weeds and indigenous grasses which may attain such large growth as to become, when dry, a fire menace to adjacent improved property;

(3) Weeds which bear or may bear seeds of a downy or wingy nature;

(4) Weeds which are located in an area which harbors rats, insects, animals, reptiles, or any other creature which either may or does constitute a menace to health, public safety or welfare; and

(5) Weeds and indigenous grasses on or about residential property which, 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.

(Ord. 432, passed 6-1-2020)

§ 8-403 PUBLIC OFFICER: NOTICE TO REMOVE.

(a) The City Council shall designate a public officer to be charged with the administration and enforcement of this article. The public officer or an authorized assistant shall notify in writing the owner, occupant or agent in charge of any premises in the city upon which weeds exist in violation of this article, by mail or by personal service, once per calendar year.

(b) Such notice shall include the following:

(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 charge of the property is ordered to cut the weeds within ten days of the receipt of notice;

(3) That the owner, occupant or agent in charge of the property may request a hearing before the governing body or its designated representative within five days of the receipt of notice;

(4) That if the owner, occupant or agent in charge of the property does not cut the weeds, the city or its authorized agent will cut the weeds and assess the cost of the cutting, including a reasonable administrative fee, against the owner, occupant or agent in charge of the property;

(5) That the owner, occupant or agent in charge of the property will be given an opportunity to pay the assessment, and, if it is not paid, it will be added to the property tax as a special assessment;

(6) That no further notice shall be given prior to removal of weeds during the current calendar year; and

(7) That the public officer should be contacted if there are any 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, 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 section.

(Ord. 432, passed 6-1-2020)

§ 8-404 ABATEMENT; ASSESSMENT OF COSTS.

(a) Upon the expiration of ten days after receipt of the notice required by § 8-403, and in the event that the owner, occupant or agent in charge of the premises shall neglect or fail to comply with the requirements of § 8-403, the public officer or an authorized assistant shall cause to be cut, destroyed and/or removed all such weeds and abate the nuisance created thereby at any time during the current calendar year.

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

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

(Ord. 432, passed 6-1-2020)

§ 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.

(Ord. 432, passed 6-1-2020)

§ 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 an ordinance violation.

(Ord. 432, passed 6-1-2020)

§ 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 section, the term *NOXIOUS WEEDS* shall remain kudzu (*Pueraria lobate*), field bindweed (*Convolvulus arvenis*), Russian knapweeds (*Centanuea picris*, hoary cress (*Lepidium draba*), Canadian thistle (*Cirsium arvense*) quackgrass (*Agropyron repens*), leafy spurge (*Euphorbia esula*), burragweed (*Franseria tomentosa* and *discolor*), pignut (*Hoffmannseggia densiflora*), must (nodding) thistle (*Carduus nutans L.*), and Johnson grass (*Sorghum haalepense*).
(Ord. 432, passed 6-1-2020)

§ 8-408 REAL ESTATE EXEMPTIONS.

The following tracts are used for haying, pasturing, grazing and production agriculture (these are examples, but not limited to corn, soybeans and wheat) within the city and are hereby exempt from this article:

<i>Original Town</i>
Block 1, Lots 1-20
Block 2, Lots 1-20
Block 3, Lots 1-20
Block 4, Lots 1-20
Block 5, Lots 1-20
Block 6, Lots 1-20
Block 7, Lots 1-20
Block 11, Lots 11-20
Block 33, Lots 11-20
Block 81, Lots 1-20
Block 90, Lots 11-17
Block 91, Lots 1-20
Block 97, Lots 1-5 and Lots 16-20
Block 98, Lots 1-5 and Lots 16-20

East LeRoy Addition

Block 4, Lots 9-16

Block 7, Lots 1-16

Wilkinson Addition

Entire Property, NE, NW, SW Quarters, no lot numbers

Mid American Machine

A tract beginning at a point at the intersection of the east right-of-way line of Ennis Street and the south right-of-way line of K-58 Highway (formerly known as K-57 Highway), which point is 79.74 feet south and 12.05 feet east of the northwest corner of Section Two, Township 23 South, Range 16, east of the sixth principal meridian; thence east along said south right-of-way line of K-58 Highway (formerly known as K-57 Highway) 863.77 feet; thence south and parallel to the east right-of-way line of Ennis Street 514.60 feet; thence west northwesterly 865.68 feet to said east right-of-way line of Ennis Street; thence north along said right-of-way line 455.35 feet to the point of beginning, except mineral interests and subject to no recovery operations on above-described real estate, Coffey County, Kansas.

Robinson's Addition

Block 1, Lots 1-9

Block 2, Lots 1-17

Block 3, Lots 2-12

Block 6, Lots 1-6

Block 7, Lots 8-12 and Lots 1-6

Block 10, Lots 1-3

North Addition

Block 1, Lots 1-26

Block 2, Lots 1-26

Block 3, Lots 1-26

Block 4, Lots 1-13 and Lots 14-22

Block 6, Lots 14-26

Block 7, Lots 1-7 and Lots 14-22
Block 8, Lots 1-24
Block 9, Lots 1-24
Block 11, Lots 1-8 and Lots 18-24
Block 12, Lots 1-24
Block 13, Lots 1-24
Block 14, Lots 5-12 and Lots 13-24
Block 16, Lots 1-24
Block 17, Lots 1-12 and Lots 13-24
Block 18, Lots 1-12
Block 20, Lots 1-24
Block 21, Lots 1-24
Block 22, Lots 1-6
Block 23, Lots 1-24
Block 25, Lots 1-24
Block 26, Lots 1-24
Block 27, Lots 1-24
Block 28, Lots 5-12 and Lots 13-20
Block 29, Lots 1-24
Block 30, Lots 1-6 and Lots 21-24
Block 34, Lots 1-24
Block 37, Lots 13-18
Block 39, Lots 1-12 and Lots 13-18
Block 40, Lots 1-24
Block 41, Lots 1-24
Block 48, Lots 14-26

(Ord. 432, passed 6-1-2020)

§ 8-409 EXEMPTION REQUIREMENTS.

In the event any of the above properties are not utilized by their owner or an agent of the owner for the purposes of haying, pasturing, grazing and production agriculture (these are examples, but not limited to corn, soybeans and wheat) in any one year between April 1 and October 15, then such property shall no longer be considered as exempt from this article pursuant to § 8-408 herein. Thereafter, any such property that no longer qualifies as exempt property pursuant to § 8-408 shall then be maintained in accordance with this article. In the event of extreme weather conditions making it impossible for a property owner to not utilize said property in a particular year, then at the discretion of the public officer, the qualification for exemption may be excused.
(Ord. 432, passed 6-1-2020)

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 nonresidential)
- 8-510 Designation of blighted buildings and premises (nonresidential)
- 8-511 Inspection of buildings, 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”.

§ 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 nonresidential, shall conform to the requirements of this code.

§ 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 nonresidential structures;
- (c) Determines the responsibilities of owners, operators and occupants; and
- (d) Provides for the administration and enforcement thereof.

§ 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 partially 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 partially 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 partially 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 or 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 nonresidential, 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 Council.

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”, “premises” are used in this article, they shall be construed as though they were followed by the words “or any part thereof”.

§ 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.

§ 8-506 REGULATIONS FOR THE USE AND OCCUPANCY OF DWELLINGS.

(a) 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.

(b) The following requirements are hereby declared essential to the health and safety of the occupants of such dwelling or dwelling unit.

(1) *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.

(2) *Basement or cellar.* The basement or cellar of any dwelling shall be reasonably dry and ventilated and shall be kept free from rubbish accumulation.

(3) *Basement dwelling units.* The use of basements or cellars for dwelling units is prohibited unless they comply with division (b)(18) 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.

(4) *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.

(5) *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.

(A) 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.

(B) 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.

(6) *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.

(7) *Entrances.*

(A) 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.

(B) 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.

(8) *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 (b)(8).

(9) *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.

(10) *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.

(11) *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.

(12) *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.

(13) *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.

(14) *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.

(15) *Plumbing.* All plumbing, water closets and other plumbing fixtures in every dwelling or dwelling unit shall be maintained in good working order.

(16) *Privies.* All pit privies, privy vaults, “dry hopper” sewer-connected privies and frost-proof closets are hereby declared to be a public nuisance.

(17) *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.

(18) *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.

(19) *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.

(20) *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.

§ 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.

§ 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) *Existence of conditions.* 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 generally.* 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.

§ 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.

§ 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 nonresidential buildings and premises.

(b) *Notice of violation.* Procedures of notification shall follow those prescribed in § 8-512.

§ 8-511 INSPECTION OF BUILDINGS, 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.

§ 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.

§ 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.

§ 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.

§ 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.

§ 8-516 DEMOLITION BY PUBLIC OFFICER; PROCEDURE AND COSTS.

(a) Failure to comply with the order under § 8-515 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.

(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.

§ 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.

§ 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.

§ 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.

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.

§ 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.

§ 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.

§ 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.

§ 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.

§ 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.

§ 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.

§ 8-608 INSPECTIONS.

The public officer 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.

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 monies
- 8-707 Public officer; investigation, removal of structure
- 8-708 Removal of structure; excess monies
- 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.

§ 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.

§ 8-703 SAME; ENCUMBRANCES.

Prior to final settlement on any claim covered by § 8-702, the insurer or insurers shall contact the County Treasurer, Coffey 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, Coffey County, Kansas.

§ 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.

§ 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 public officer 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 Public Officer 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.

§ 8-706 FUND CREATED; DEPOSIT OF MONIES.

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.

§ 8-707 PUBLIC OFFICER; INVESTIGATION, REMOVAL OF STRUCTURE.

(a) Upon receipt of monies as provided for by this article, the City Treasurer shall immediately notify the Chief Public Officer of said receipt, and transmit all documentation received from the insurance company or companies to the Chief Public Officer.

(b) Within 30 days of the receipt of said moneys, the Chief Public Officer 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) above, the Chief Public Officer 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 Public Officer 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 Public Officer 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.

§ 8-708 REMOVAL OF STRUCTURE; EXCESS MONIES.

If the Chief Public Officer 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.

§ 8-709 SAME; DISPOSITION OF FUNDS.

If the Chief Public Officer, 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 Public Officer 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 Public Officer shall publish a new lien as authorized by K.S.A. 12-1756, in an amount equal to such excess expenses incurred.

§ 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.

§ 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.

ARTICLE 8: SOUND AMPLIFICATION SYSTEMS

Section

- 8-801 Prohibition
- 8-802 Definitions
- 8-803 Affirmative defense
- 8-804 Penalty

§ 8-801 PROHIBITION.

No person operating, occupying or leaving parked unoccupied a motor vehicle on a street, highway, alley, parking lot, driveway or anywhere within the city shall operate or permit the operation of any sound amplification system from within the vehicle so that the sound is plainly audible at a distance of 50 feet from the vehicle.

(Ord. 394, passed 11-1-2010)

§ 8-802 DEFINITIONS.

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

PLAINLY AUDIBLE. Any sound produced by a sound amplification system from within the vehicle, which clearly can be heard at a distance of 50 feet or more. Measurement standards shall be by the auditory senses, based upon direct line of sight. Words or phrases need not be discernible and bass vibrations are included. The motor vehicle may be stopped, standing, parked or moving on a street, highway, alley, parking lot, driveway or anywhere in the city.

SOUND AMPLIFICATION SYSTEM. Any radio, tape player, compact disc player, loud speaker or other electronic device used for the amplification of sound.

(Ord. 394, passed 11-1-2010)

§ 8-803 AFFIRMATIVE DEFENSE.

It is an affirmative defense to a charge under this article that the operator was not otherwise prohibited by law from operating the sound amplification system, and that any of the following apply:

(a) The system was being operated to request medical or vehicular assistance or to warn of a hazardous road condition;

(b) The vehicle was an emergency or public safety vehicle;

(c) The vehicle was owned and operated by the city or a gas, electric, communications or refuse company;

(d) The system was used for the purpose of giving instructions, directions, talks, addresses, lectures or transmitting music to any persons or assemblages of persons in compliance with ordinances by the city; and

(e) The vehicle was used in authorized public activities, such as parades, fireworks, sports events, musical productions and other activities which have the approval of the department of the city to grant such approval.

(Ord. 394, passed 11-1-2010)

§ 8-804 PENALTY.

Any person convicted of violating the provisions of this article shall be subject to a definite term of confinement in the county jail which shall be fixed by the court and shall not exceed one month and shall be subject to a fine not exceeding \$500, or both.

(Ord. 394, passed 11-1-2010)

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.

(a) There is hereby established a Municipal Court for the city.

(b) The Municipal Court shall have jurisdiction to hear and determine cases involving violations of the ordinances of the city.

§ 9-102 SAME; PRACTICE AND PROCEDURE.

The State 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.

§ 9-103 TIME AND PLACE OF SESSIONS.

The 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.

§ 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.

§ 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)

§ 9-106 SAME; POWERS AND DUTIES.

The Municipal Judge shall have such powers and duties as set forth in the State Code of Procedure for Municipal Courts (K.S.A. 12-4101 et seq.) and all acts amendatory or supplemental thereto.

§ 9-107 SAME; SALARY.

The Municipal Judge shall receive a salary as shall be fixed by ordinance.

§ 9-108 COURT CLERK.

(a) 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.

(b) The duties of the office shall be those prescribed by the Code for Municipal Courts set forth in K.S.A. Ch. 12, Art. 41, and shall include the following duties.

(1) The Clerk shall issue all processes of the Court; administer oaths; file and preserve all papers, and 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.

(2) 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 monies 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.

(3) The monthly salary of the Clerk shall be fixed by ordinance.

(4) 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)

§ 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.

§ 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.

§ 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 this 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.

§ 9-112 COURT COSTS.

(a) Pursuant to Charter Ord. 7, the governing body of the city is empowered and authorized to establish court costs and fine schedule in the administration of justice for the city.

(b) The court costs assessable by the Municipal Court shall be and hereby are amended to be as follows: costs assessable for the administration of justice in the Municipal Court shall be equal to the court costs charged by the District Court of Coffey County, as provided by statute, as amended from time to time, which may include: witness fees and mileage as set forth in K.S.A. 12-4411; assessment required by K.S.A. 20-1a11 and K.S.A. 12-4117 for judicial education; costs established pursuant to K.S.A. 74-5619 and K.S.A. 12-4117, as amended, providing funds for the law enforcement training center and juvenile detention facilities.

(c) The fine schedule adopted by the city shall be equal to and in the same amount of like fines charged in the District Court of Coffey County, and as provided by statute, and as amended from time to time, and as set forth in the fine schedule for traffic infractions pursuant to K.S.A. 8-2118, as amended.

(Ord. 364, passed - -)

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.

§ 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.

§ 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.

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.

§ 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.

§ 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 State Bureau of Investigation for law enforcement, testing or comparison by the State 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 State 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)

§ 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.

§ 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.

§ 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.

ARTICLE 3: POLICE FEES

Section

- 10-301 Definitions
- 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 DEFINITIONS.

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.

§ 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.

§ 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.

§ 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.

CHAPTER XI: PUBLIC OFFENSES

Article

- 1. UNIFORM OFFENSE CODE**
- 2. LOCAL REGULATIONS**

ARTICLE 1: UNIFORM OFFENSE CODE

Section

11-101 Incorporating Uniform Public Offense Code

§ 11-101 INCORPORATING UNIFORM PUBLIC OFFENSE CODE.

There is hereby incorporated by reference for the purpose of regulating public offenses within the corporate limits of the city, that certain code known as the “Uniform Public Offense Code for Kansas Cities,” Edition of 2020, 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. No fewer than three copies of said Uniform Public Offense Code shall be marked or stamped “Official Copy as Adopted by the Code of the City of LeRoy, 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.

(Ord. 433, passed 8-17-2020)

ARTICLE 2: LOCAL REGULATIONS

Section

- 11-201 Curfew
- 11-202 Spitting on sidewalks
- 11-203 Marijuana and other drug sales
- 11-204 Drug paraphernalia

§ 11-201 CURFEW.

(a) It shall be unlawful for any person under the age of 16 years to be upon public streets and grounds of the city after the hours of 12:00 midnight, unless such minor shall be accompanied by a parent, guardian or spouse.

(b) Any person violating the provisions of division (a) above shall, upon conviction, be fined in any sum not less than \$50, nor more than \$100.
(Ord. 47, passed 5-3-1911; Ord. 304, passed 9-2-1992)

§ 11-202 SPITTING ON SIDEWALKS.

(a) It shall be unlawful for anyone to spit upon any sidewalk along any street in the city or in any public hall or in any church or other place used for public gatherings.

(b) Any person convicted of a violation of division (a) above shall be fined in a sum not less than \$50, nor more than \$100 for a second offense, and shall be committed until fine and costs are paid.
(Ord. 48, passed 8-7-1912)

§ 11-203 MARIJUANA AND OTHER DRUG SALES.

(a) (1) It shall be unlawful for any person to manufacture, possess, have under his or her control, prescribe, administer, deliver, distribute, dispense, compound, sell or offer for sale any depressant, stimulant or hallucinogenic drug in violation of the Kansas Controlled Substances Act, being K.S.A. 65-4101 et seq., within the corporate limits of the city.

(2) It shall be unlawful for any person to have in her or her possession any marijuana in violation of the Kansas Controlled Substances Act, being K.S.A. 65-4101 et seq.

(b) A violation of this section is a Class A violation, the sentence for which shall be a definite term of confinement in the County Jail, which shall be fixed by the Court and shall not exceed one year or a fine not exceeding \$2,500, or both. In addition to any sentence or fine imposed, the Court shall enter an order which requires that the person enroll in and successfully complete an alcohol and drug safety action program or treatment program as provided in K.S.A. 8-1008, and amendments thereto, or both the education and treatment programs.

(Ord. 400, passed 4-2-2012)

§ 11-204 DRUG PARAPHERNALIA.

(a) *Possession of drug paraphernalia prohibited.* It shall be unlawful for any person to possess drug paraphernalia within the city limits.

(b) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DRUG PARAPHERNALIA. All equipment, products and materials of any kind which are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of the Uniform Controlled Substances Act. **DRUG PARAPHERNALIA** shall include, but not limited to:

(A) Kits used or intended for use in planting, propagating, cultivating, growing or harvesting and species of plant which is a controlled substance or from which a controlled substance is derived;

(B) Kits used or intended for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;

(C) Isomerization devices used or intended for use in increasing the potency of any species of plant which is a controlled substance;

(D) Testing equipment used or intended for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances;

(E) Scales or balances used or intended for use in weighing or measuring controlled substances;

(F) Diluents or adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, which are used or intended for use in cutting controlled substances;

(G) Separating gins and sifters used or intended for use in removing twigs and seeds from or otherwise cleaning or refining marijuana;

(H) Blenders, bowls, containers, spoons and mixing devices used or intended for use in packaging small quantities of controlled substances;

(I) Capsules, balloons, envelopes and other containers used or intended to use in packaging small quantities of controlled substances;

(J) Containers and other objects used or intended for use in storing or concealing controlled substances;

(K) Hypodermic syringes, needles and other objects used or intended for use in parenterally injecting controlled substances into the human body; and

(L) Objects used or intended for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish, hashish oil, methamphetamine or any other controlled substance into the human body, such as but not limited to:

(i) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;

(ii) Water pipes;

(iii) Carburetion tubes and devices;

(iv) Smoking and carburetion masks;

(v) Roach clips (objects used to hold burning material, such as marijuana cigarette, that has become too small or too short to be held in the hand);

(vi) Miniature cocaine spoons and cocaine vials;

(vii) Chamber pipes;

(viii) Carburetor pipes;

(ix) Electric pipes;

(x) Air-driven pipes;

- (xi) Chillums;
- (xii) Bongs; and
- (xiii) Ice pipes and chillers.

PERSON. Any individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, association or other legal entity.

SIMULATED CONTROLLED SUBSTANCE. Any product which identifies itself by a common name or slang term associated with a controlled substance and which indicates on its label or accompanying promotional material that the product simulates the effect of a controlled substance.

(c) **Punishment.** A violation of this section is a Class A violation, the sentence for which shall be a definite term of confinement in the County Jail which shall be fixed by the Court and shall not exceed one year or a fine not exceeding \$2,500, or both. In addition to any sentence or fine imposed, the Court shall enter an order which requires that the person enroll in and successfully complete an alcohol and drug safety action program or treatment program as provided in K.S.A. 8-1008, and amendments thereto, or both the education and treatment programs.
(Ord. 401, passed 4-2-2012)

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

Cross-reference:

Health and Welfare, see Ch. VIII

Streets and Sidewalks, see Ch. XIII

§ 12-101 CITY LAWS EXTENDED TO PARK.

The laws of the city shall extend to and cover all city parks.

§ 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 shall have full power to enforce city laws governing city parks and shall maintain order therein.

§ 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.

§ 12-104 VEHICLE REGULATIONS.

(a) Motor vehicles, including any vehicle licensed to operate on public streets, roads and highways and motorbikes, go-carts, snowmobiles and other motorized off-the-road vehicles 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 authorized 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.

§ 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.

§ 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.

§ 12-107 CAMPING PROHIBITED.

Overnight camping is hereby prohibited in city parks except where posted.

§ 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.

§ 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.

§ 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.

§ 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.

CHAPTER XIII: STREETS AND SIDEWALKS

Article

- 1. SIDEWALKS**
- 2. STREETS**
- 3. TREES AND SHRUBS**
- 4. SNOW AND ICE**
- 5. CULVERTS AND WATERWAYS**

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.

§ 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, 12-1807)

§ 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.

§ 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)

§ 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)

§ 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)

§ 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)

§ 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)

§ 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.

§ 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.

§ 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.

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.

§ 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.

§ 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 section shall cover only one specified excavation.

§ 13-204 SAME; BARRICADES.

(a) 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.

(b) 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.

§ 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.

§ 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.

§ 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.

§ 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.

§ 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) (1) 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.

(2) 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.

§ 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.

§ 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.

§ 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.

§ 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.

§ 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.

§ 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.

ARTICLE 3: TREES AND SHRUBS

Section

- 13-301 Public tree care
- 13-302 Diseased trees; determination
- 13-303 Same; notice served
- 13-304 Same; failure of owner; duty of city
- 13-305 Same; prevent spread of disease
- 13-306 Dangerous, dead or diseased trees on private property
- 13-307 Trees on public property; cost borne by city
- 13-308 Costs on tax rolls
- 13-309 Injuring trees and shrubs
- 13-310 Fire hydrants, plantings adjacent to

§ 13-301 PUBLIC TREE CARE.

The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds as may be necessary to ensure safety when servicing city utilities or to preserve the symmetry and beauty of public grounds. The city may remove or cause or order to be removed, any tree or part thereof that is in an unsafe condition or, by reason of its nature, is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or is affected with any injurious fungus, insect or other pest.

§ 13-302 DISEASED TREES; DETERMINATION.

Whenever any competent city authority or competent state or federal authority shall file with the governing body a statement in writing based upon a laboratory test or other supporting evidence that trees or tree materials or shrubs located upon private property within the city are infected or infested with or harbor any tree or plant disease or insect or larvae, the uncontrolled presence of which may constitute a hazard to or result in the damage or extinction of other trees or shrubs in the community, describing the same and where located, the governing body shall direct the City Clerk to forthwith issue notice requiring the owner or agent of the owner of the premises to treat or to remove any such designated tree, tree material or shrub within a time specified in the notice.

§ 13-303 SAME; NOTICE SERVED.

Notice shall be served by a police officer by delivering a copy thereof to the owner and the person in possession of such property, or if the same be unoccupied or the owner a nonresident of the city, then the City Clerk shall notify the owner by mailing a notice by certified mail to his or her last known address.

§ 13-304 SAME; FAILURE OF OWNER; DUTY OF CITY.

If the owner or agent shall fail to comply with the requirements of the notice within the time specified in the notice, then the Chief of Police shall proceed to have the designated tree, tree material or shrub, treated or removed and report the cost thereof to the City Clerk. In lieu of city employees performing any such work, the governing body may contract with any competent person, company or corporation for the performance of such work.

§ 13-305 SAME; PREVENT SPREAD OF DISEASE.

No tree, tree materials or shrubs as mentioned herein that have been cut down, either by the property owner or by the city, shall be permitted to remain on the premises, but shall be immediately treated, removed and burned or immediately burned upon the premises, if safe to do so, so as to prevent the spread of the tree disease.

§ 13-306 DANGEROUS, DEAD OR DISEASED TREES ON PRIVATE PROPERTY.

(a) Every owner of any tree overhanging any street or right-of-way within the city shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of 14 feet above the surface of the street or right-of-way. The owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs that constitute a menace to the safety of the public. The city shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic-control device or sign.

(b) The city shall have the right to cause the removal of any dangerous, dead or diseased trees on private property within the city, when such trees constitute a hazard to life and property. The city will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within 60 days after the date of service of notice. The owners, within 30 days of the notice, may request a hearing covering the ordered removal. In the event of failure of owners to comply with such provisions, the city shall have the authority to remove the trees and charge the cost of removal on the owner's property tax notice.

§ 13-307 TREES ON PUBLIC PROPERTY; COST BORNE BY CITY.

The city shall have the authority to treat or to remove any tree as defined in § 13-301, or to remove any dead tree as mentioned herein, which is located within the limits of any public right-of-way within the city. The adjacent property owners shall not be responsible for the cost of treatment or removal of any such trees within the public right-of-way and this expense shall be borne by the city at large.

§ 13-308 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 treatment or removal performed under the authority of §§ 13-304 to 13-306 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.

§ 13-309 INJURING TREES AND SHRUBS.

No person shall willfully break, cut, take away, destroy, injure, mutilate or attempt to willfully break, cut, take away, destroy, injure or mutilate any tree, shrub, vine, flower or landscaping standing, growing, or being upon the premises in the possession of another, or growing on any public ground, street, sidewalk, promenade or park in the city.

§ 13-310 FIRE HYDRANTS, PLANTINGS ADJACENT TO.

No person shall plant, or cause to be planted, nor allow to grow upon property owned by him or her any shrubs, trees or planting of any kind within ten feet of any fire hydrant in the city, in order that every fire hydrant shall be in full view day or night to fire apparatus approaching from any direction.

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.

§ 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.

§ 13-403 SAME; PENALTY.

Any person violating the provisions of § 13-401 shall, upon conviction, be fined \$25.

§ 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.

§ 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.

ARTICLE 5: CULVERTS AND WATERWAYS

Section

- 13-501 Street Committee approval
- 13-502 City not liable for costs
- 13-503 Drain obstruction prohibited
- 13-504 Penalty

§ 13-501 STREET COMMITTEE APPROVAL.

Before any person shall construct any waterway or place any culvert in any gutter, or ditch alongside the roadway of any street, or shall place any covering over any such gutter or ditch for the purpose of affording a means of entering or leaving the property abutting on such street, he or she shall first obtain the approval for such from the Street Committee of the City Council.

(Ord. 221, passed 6-7-1972)

§ 13-502 CITY NOT LIABLE FOR COSTS.

The city shall not be liable for the costs of such waterways, culverts or coverings or any part thereof.

(Ord. 221, passed 6-7-1972)

§ 13-503 DRAIN OBSTRUCTION PROHIBITED.

It shall be unlawful for any person to place in or fill with concrete, dirt, planks, stones or other materials in any drainage ditch which may change the course of any drainage ditch or obstruct any open drain in the city.

(Ord. 221, passed 6-7-1972)

§ 13-504 PENALTY.

Any person not complying with this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than \$500 or by imprisonment for not longer than 30 days, or by both such fine and imprisonment.

(Ord. 221, passed 6-7-1972)

CHAPTER XIV: TRAFFIC

Article

- 1. STANDARD TRAFFIC ORDINANCE**
- 2. LOCAL TRAFFIC REGULATIONS**
- 3. SPECIAL PURPOSE VEHICLES**
- 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 standard traffic ordinance known as the “Standard Traffic Ordinance for Kansas Cities”, Edition of 2019, prepared and published in book form by the League of Kansas Municipalities, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed, such incorporation being authorized by K.S.A. 12-3009 through 12-3012, inclusive, as amended. One copy of said standard ordinance shall be marked or stamped “Official Copy as Incorporated by the Code of the City of LeRoy, 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.

(Ord. 428, passed 9-9-2019)

§ 14-102 SAME; TRAFFIC INFRACTIONS AND TRAFFIC OFFENSES.

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

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

§ 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 \$25, nor more than \$100,

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except for speeding which shall be determined by using the schedule used by the County Court. A person tried and convicted 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.

ARTICLE 2: LOCAL TRAFFIC REGULATIONS

Section

- 14-201 Traffic-control devices and markings
- 14-202 Speed limits
- 14-203 Parking in the city

§ 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.

§ 14-202 SPEED LIMITS.

(a) No person shall operate a motor vehicle on any street, avenue or highway within the said city at a speed greater than is reasonable and prudent under the conditions then existing and having regard for the traffic and use of said streets, avenues or highways, nor at a rate of speed, such as to endanger the life or limb of any person.

(b) Where no special hazard exists, the following speeds shall be lawful but any speed in excess of said limits shall be prima facie evidence that the speed is not reasonable or prudent and that it is unlawful:

(1) Twenty mph in the school zone in said city. For the purpose of this section, the “school zone” shall be considered Seventh Street to Ninth Street on Main Street and from C Street to California Street on Eighth Street;

(2) Twenty mph in the business district of said city. For the purpose of this section, the “business district” shall be considered Nebraska Avenue to Fifth Street on Main Street and C Street to California Street on Sixth Street; and

(3) Thirty mph in any residence district.

(c) The foregoing prima facie speed shall not relieve the driver from the duty to decrease speed when approaching and crossing an intersection as may be necessary to avoid colliding with any person, vehicle or other conveyance or on entering a highway or through street in compliance with legal requirements and the duty of all persons to use due care; provided that, the speed limits in this section shall not apply to physicians or surgeons or police or fire vehicles or ambulances when answering emergency calls demanding excessive speed.

(Ord. 189, passed 11-2-1955)

§ 14-203 PARKING IN THE CITY.

(a) (1) Angle parking on Sixth Street in the city is hereby prohibited. Parallel parking on Sixth Street in the city shall be permitted; provided, said vehicle shall be stopped or parked with the right-hand wheels of said vehicle parallel with end and within 12 inches of the right hand curb or edge of said Sixth Street pavement or blacktop.

(2) Any person, firm, partnership or corporation who shall park or caused to be parked any vehicle at any angle on Sixth Street in the city, upon conviction thereof, shall be deemed guilty of a misdemeanor and shall be fined not less than \$1 and not more than \$25.

(b) (1) It shall be unlawful for any person, persons, firms or corporations to double park or to park or stand any vehicle in the travel portion of any street or roadway in the city.

(2) It shall be unlawful for any person, persons, firm or corporation to park any vehicle, truck, semi-trailer or transport greater than standard fender width or truck bed greater than nine feet in length along Main Street between Nebraska Avenue and Fifth Street, except for the sole purpose of loading and unloading said vehicles.

(3) Any person, persons, firm or corporation violating any of the provisions of this division (b) shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$1, nor more than \$25, and costs.

(c) (1) The definitions contained in the latest version of the Standard Traffic Ordinances for Kansas Cities, prepared and published by the League of Kansas Municipalities as may be in effect from time to time upon adoption by the city are hereby incorporated herein by reference.

(2) It shall be unlawful to park or leave parked a truck, a bus, a truck tractor, a road tractor, a farm tractor, a trailer or a semi-trailer or any other motor vehicle on the side of any street immediately adjacent to the LeRoy City Park, said park being bounded by Main, Nebraska, California and Kansas Streets in the city overnight.

(3) Any person convicted of a violation of this division (c) shall be deemed guilty of a non-moving traffic violation and shall be punished by a fine of not more than \$100.

(d) (1) Angle parking shall be established on the following streets in the city:

(A) The west side of the 500, 600 and 700 Blocks of Main Street; and

(B) The east side of the 500 and 600 Blocks on Main Street.

(2) The angle parking herein established shall conform to the rules and regulations set forth by the state.
(Ord. 174, passed 5-13-1952; Ord. 184, passed 8-4-1954; Ord. 356, passed 11-3-2003; Ord. 410, passed 12-2-2013)

ARTICLE 3: SPECIAL PURPOSE VEHICLES

Section

- 14-301 Special types of vehicles; recreational vehicles
- 14-302 Registration decal

§ 14-301 SPECIAL TYPES OF VEHICLES; RECREATIONAL VEHICLES.

(a) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALL-TERRAIN VEHICLE. Any motorized non-highway vehicle 50 inches or less in width, having a dry weight of 1,500 pounds or less, traveling on three or more non-highway tires, and having a seat to be straddled by the operator. As used in this definition, “non-highway tire” means any pneumatic tire six inches or more in width, designed for use on wheels with rim diameter of 14 inches or less.

GOLF CART. 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 four persons, including the driver.

MICRO UTILITY TRUCK. Any motor vehicle which is not less than 48 inches in width, has an overall length, including the bumper, of not more than 160 inches, has an unladen weight, including fuel and fluids, or more than 1,500 pounds, can exceed 40 mph as originally manufactured and is manufactured with a metal cab. ***MICRO UTILITY TRUCK*** does not include a work-site utility vehicle.

SLOW-MOVING VEHICLE EMBLEM. The same meaning as contained in K.S.A. 8-1717, and amendments thereto.

SPECIAL PURPOSE VEHICLE. All-terrain vehicle, golf cart, micro utility truck and work-site utility vehicle, either individually or collectively.

WORK-SITE UTILITY VEHICLE. Any motor vehicle which is not less than 48 inches in width, has an overall length, including the bumper, of not more than 135 inches, has an unladen weight, including fuel and fluids, or more than 800 pounds and is equipped with four or more low pressure tires, a steering wheel and bench or bucket type seating allowing at least two people to sit side-by-side, and may be equipped with a bed or cargo box for hauling materials. ***WORK-SITE UTILITY VEHICLE*** does not include a micro utility truck.

(b) *Operation of special purpose vehicles on city streets; special conditions and restrictions on operation.*

(1) All-terrain vehicles may be operated upon the public highway, street, road or alleys within the corporate limits of the city, except no all-terrain vehicles shall be operated on Highway 58 within corporate city limits.

(A) No all-terrain vehicle shall be operated on any public highway, street, road or alley between sunset and sunrise unless equipped with lights as required for motorcycles.

(B) A person operating an all-terrain vehicle shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person nor shall any other person ride on an all-terrain vehicle, unless such all-terrain vehicle is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if designed for two persons, or upon another seat firmly attached to the all-terrain vehicle at the rear or side of the operator.

(C) A person shall ride upon an all-terrain vehicle only while sitting astride the seat, facing forward, with one leg on each side of the all-terrain vehicle.

(D) No person shall operate an all-terrain vehicle while carrying any package, bundle or other article which prevents such person from keeping both hands on the handlebars.

(E) No operator shall carry any person, nor shall any person ride, in a position that will interfere with the operation or control of the all-terrain vehicle or the view of the operator.

(2) Golf carts may be operated upon the public highways, streets, roads and alleys within the corporate limits of the city.

(A) No golf cart may be operated upon any public highway, street, road and alley with a posted speed limit in excess of 30 mph.

(B) No golf cart shall be operated on any interstate highway, federal highway or state highway; provided, however, that, the provisions of this division (b)(2)(B) shall not prohibit a golf cart from crossing a federal or state highway with a posted speed limit greater than 30 mph.

(C) No golf cart shall be operated on any public highway, street, road or alley between sunset and sunrise.

(3) Micro utility trucks may be operated upon the public highways, streets, roads and alleys within the corporate limits of the city, except no all-terrain vehicles shall be operated on Highway 58 within corporate city limits.

(A) No micro utility truck shall be operated on any public highway, street, road or alley, unless such truck complies with the equipment requirements under K.S.A. 8-17, and amendments thereto.

(B) No micro utility truck shall be operated on any interstate highway, federal highway or state highway; provided, however, that, the provisions of this division (b)(3)(B) shall not prohibit a micro utility truck from crossing a federal or state highway.

(4) Work-site utility vehicles may be operated upon the public highways, streets, roads and alleys within the corporate limits of the city, except no all-terrain vehicles shall be operated on Highway 58 within corporate city limits.

(A) No work-site utility vehicle shall be operated on any public highway, street, road or alley between sunset and sunrise unless such vehicle is equipped with lights as required by law for motorcycles.

(B) No work-site utility vehicle shall be operated on any interstate highway, federal highway or state highway; provided, however, that, the provisions of this division (b)(4)(B) shall not prohibit a work-site utility vehicle from crossing a federal or state highway.

(C) It shall be illegal to operate a work-site utility 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 in the rear of the vehicle; the slow-moving vehicle emblem shall be mounted and displayed in compliance with K.S.A. 8-1717, and amendments thereto.

(c) *Valid driver's license required; penalty; duties and responsibilities.*

(1) No person shall operate a special purpose vehicle 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 section 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.

(2) Every person operating a work-site utility vehicle 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) *All-terrain vehicles; additional requirements.*

(1) All all-terrain vehicles are entitled to full use of a lane, and no motor vehicle shall be driven in such a manner as to deprive any all-terrain vehicle the full use of a lane.

(2) The operator of an all-terrain vehicle shall not overtake and pass in the same lane occupied by the vehicle being overtaken.

(3) No person shall operate an all-terrain vehicle between lanes of traffic or between adjacent lines or rows of vehicles.

(4) Divisions (d)(2) and (d)(3) above shall not apply to police officers in the performance of their official duties.

(5) No person riding upon an all-terrain vehicle shall attach himself, herself or the all-terrain vehicle to any other vehicle on a roadway.

(e) *All-terrain vehicles; equipment required for operators and riders.*

(1) No person under the age of 18 years shall operate or ride upon an all-terrain vehicle unless wearing a helmet which complies with minimum guidelines established by the National Highway Traffic Safety Administration pursuant to the National Traffic and Motor Vehicle Safety Act of 1966 for helmets designed for use by motorcyclists and other motor vehicle users.

(2) No person shall operate an all-terrain vehicle unless such person is wearing an eye-protective device which shall consist of protective glasses, goggles or transparent face shields which are shatter-proof and impact-resistant, except when the all-terrain vehicle is equipped with a windscreen which has a minimum height of ten inches measured from the center of the handlebars.

(f) *Insurance required; penalty.*

(1) Every owner of a special purposes vehicle shall provide liability coverage in accordance with § 200 of the 2008 Standard Traffic Ordinance, and amendments thereto, and the Kansas Automobile Injury Reparations Act, K.S.A. 40-3101 et seq., and amendments thereto.

(2) All provisions of § 200 of the 2009 Standard Traffic Ordinance, and amendments thereto, including penalty provisions, shall be applicable to all owners and operators of special purpose vehicles.

(g) *Penalty.* Unless specifically provided for herein, a violation of this section shall be deemed an ordinance traffic infraction. Upon an entry of a plea of guilty or no contest or upon being convicted of such violation, the penalty imposed shall be in accordance with § 201, 2008 Standard Traffic Ordinance, and amendments thereto, or such other similar provision as the city may then have in effect.
(Ord. 389, passed 9-14-2009)

§ 14-302 REGISTRATION DECAL.

Before operating any special purpose utility vehicle on any public highway, street, road or alley within the corporate limits of the city, the vehicle shall be inspected by and registered with the city's Police Department and display a valid registration decal affixed and displayed in such a manner as to be clearly visible from the rear of the vehicle. The application shall be made upon forms provided by the city and each application shall contain the name of the owner, the owner's residence address, or bona fide place of business, a brief description of the vehicle to be registered (including make, model and serial number, if applicable). Proof of insurance, as required in § 14-301(f) shall be furnished at the time of application for registration. The annual registration fee for a special purpose vehicle shall be \$10. The full amount of the license fee shall be required regardless of the time of year that the application is made. The license issued hereunder is not transferrable. Renewals of the registration of a special use vehicle shall be made by June 1 of each year.

(Ord. 391, passed 5-3-2010)

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	Meter fee
15-106	Delinquent accounts; refusal of service; termination of service; lien against property
15-107	Landlord liability
15-108	Petty Cash Fund
15-109	Same; deposits
15-110	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.

§ 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.

§ 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.

§ 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.

§ 15-105 METER FEE.

(a) There is hereby imposed by the city a water and/or sewer hookup charge, which charge is applicable to all land served by the water and/or sewer systems of the city.

§ 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) (1) 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 provided to such premises, regardless of whether the utility service was furnished upon the application and request of the owner or lessee of the premises.

(2) 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 furnished.

(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 PETTY CASH FUND.

A Petty Cash Fund in the amount of \$200 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.

§ 15-109 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.

§ 15-110 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.

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
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- 15-213 Tampering with meter
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- 15-219 Wasting water
- 15-220 Right of access
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- 15-222 Payment of bills
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- 15-224 Use during fire
- 15-225 Cross-connections prohibited
- 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.

§ 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.

§ 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.

§ 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.

§ 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.

§ 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.

§ 15-207 CONNECTION FEES.

The fees for connection to the city waterworks system shall be as follows:

(a) To resume service after water has been disconnected, a non-refundable fee of \$50 shall be collected for the first offense in a calendar year, \$75 for the second offense in a calendar year, and \$100 for the third offense in a calendar year.

(b) To establish a new water connection at any site, a non-refundable fee of \$700 shall be collected; and

(c) To re-establish service at an existing site, a non-refundable fee of \$75 shall be collected. (Ord. 365, passed 6-15-2005)

§ 15-208 CURB COCKS.

There shall be a curb cock in every service line attached to the city main, the same to be placed within the meter box. Curb cocks shall be supplied with strong and suitable "T" handles.

§ 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.

§ 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.

§ 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 connection on the backside of the city water meter.

§ 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.

§ 15-213 TAMPERING WITH METER.

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. It shall be unlawful for any person except an authorized employee of the Water Department to turn any curb cock on or off.

§ 15-214 LEAKS PROHIBITED; PENALTY.

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, however, every customer shall have the right to appeal to the city a water bill or meter reading that he or she considers excessive.

§ 15-215 DISCONNECTION, RECONNECTION CHARGE.

The governing body shall establish by ordinance a water service disconnection and reconnection charge. Whenever the city receives a request from a customer for termination of water service, the disconnection charge shall be added to the customer's final bill. Any service disconnected for

nonpayment of delinquent bill shall be reconnected only upon payment of the delinquent bill, interest penalty thereon and the reconnection charge.

§ 15-216 UTILITY DEPOSIT.

At the time of making application for water service, the property owner or customer shall pay a meter fee in the amount and manner specified in § 15-105 to secure payment of accrued bills or bills due on discontinuance of service.

§ 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.

§ 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.

§ 15-219 WASTING WATER.

(a) (1) 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.

(2) Wasting water may include but is not limited to:

(A) Permitting water to escape down a gutter, ditch or other surface drain;

(B) Failing to repair an irrigation system's malfunction; or

(C) 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 willful 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.

§ 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.

§ 15-221 RATES.

The rates per month for the use of water in the city shall be as set by the governing body. (Ord. 417, passed 5-2-2016)

§ 15-222 PAYMENT OF BILLS.

All water bills for the previous month's water service shall be paid on or before the fourteenth day of the month following the service. For any billing not paid when due a late charge of 10% will be added to the bill.

§ 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.

§ 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.

§ 15-225 CROSS-CONNECTIONS PROHIBITED.

No person shall establish or permit to be established, or maintain or permit to be maintained, any cross-connection whereby a private, auxiliary or emergency water supply other than the regular public water supply of the city may enter the supply and distributing system of the city unless specifically approved by the State Department of Health and Environment and the governing body.

§ 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 that 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.

§ 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.

§ 15-228 SAME; PROTECTION FROM CONTAMINANTS.

Under 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 that 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.

ARTICLE 3: ELECTRICITY

[Reserved]

ARTICLE 4: SEWERS

Section

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15-408(5)	Same; specifications; cesspool, septic tank or vault
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15-425	Prohibited discharges
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15-427	Delinquent accounts; lien against property; other remedies
15-428	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.

B.O.D. (DENOTING 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 parts per million by weight.

BUILDING DRAIN. The part of the lowest horizontal piping of a drainage system that receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside the innerface of the building wall.

BUILDING SEWER. The extension from the building drain to the public sewer or other place of disposal.

COMBINED SEWERS. Sewers receiving both surface runoff and sewage are not permitted.

INDIVIDUAL DOMESTIC. Any single-family residence, commercial business, office, institution, school, church or public entity having an individual direct or indirect connection to the wastewater facilities of the city and on individual city or private water service meter, or connection to any such water service.

INDUSTRIAL. Any industrial business engaged in the manufacturing or processing of one or more products, and in which wastewaters are produced from such manufacturing or processing and said wastewaters are discharged directly or indirectly to the wastewater facilities of the city.

MULTI-DOMESTIC. Any multi-family residence, apartment or mobile home and any commercial business, office, institution, school, church or public entity having a direct or indirect connection to the wastewater facilities of the city and not having an individual water service meter but is served with city or private metered water by the owner of the property on which it is located.

NORMAL WASTEWATER. The strength of normal wastewater shall be considered within the following ranges:

- (a) A five day biochemical oxygen demand of 300 milligrams per liter or less;
- (b) A suspended solid concentration of 350 milligrams or less; and
- (c) Hydrogen ion concentration of 5.0 to 9.0.

pH. The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

PUBLIC SEWER. A sewer in which all owners of abutting properties have equal rights and is controlled by public authority.

SANITARY SEWER. A sewer that carries sewage and to which storm, surface and groundwaters are not intentionally admitted.

SEWAGE. A combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface and stormwaters as may be present.

SEWAGE TREATMENT PLANT. Any arrangement of devices and structures used for treating sewage.

SEWER. A pipe or conduit for carrying sewage.

STORM SEWER or **STORM DRAIN.** A sewer that carries storm and surface waters and drainage, but excludes sewage and polluted industrial wastes.

SUPERINTENDENT. The Superintendent of the city or his or her authorized deputy, agent or representative.

SUSPENDED SOLIDS. Solids that either float on the surface of, or are in suspension in water, sewage or other liquids, and which are removable by laboratory filtering.

USER. Any person as defined in § 1-102, including an institution, governmental agency or political subdivision producing wastewater requiring processing and treatment to remove pollutants and having premises connected to the wastewater facilities.

WASTEWATER. Sewage, the combination of liquids and water-carried wastes from residences, commercial and industrial buildings, institutions, governmental agencies, together with any ground, surface or stormwater that may be present.

§ 15-402 SEWER CONNECTION REQUIRED.

The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purpose, situated within the city and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the city, is hereby required at his or her expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this article, within 90 days after date of official notice to do so; provided, that said public sewer is within 140 feet of the property line.

§ 15-403 PERMIT; CONNECTION FEE.

(a) No 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 city.

(b) There shall be charged a fee of \$40 payable at the time of making application for the permit and shall include the sewer boot.

§ 15-404 APPLICATION.

(a) Any person desiring to make a connection to the city sewer system shall apply in writing to the City Clerk who shall forward the application to the Utility Superintendent.

(b) The application shall contain:

- (1) The legal description of the property to be connected;
- (2) The name and address of the owner or owners of the property;
- (3) The kind of property to be connected (residential, commercial or industrial); and
- (4) The point of proposed connection to the city sewer line.

(c) The city is responsible for the city's sewer main, not the boot or any lines branching off of the main.

§ 15-405 COSTS.

(a) All costs and expense incident to the installation and connection of the building sewer shall be paid by the owner.

(b) 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.

§ 15-406 SEWER CONNECTION.

(a) The connection of the building sewer into the public sewer shall be made at the "Y" branch if such branch is available at a suitable location.

(b) Where no properly located "Y" branch is available, the connection shall be made in the manner approved by the Utility Superintendent and at a location designated by the Superintendent.

§ 15-407 SEWER FOR EACH BUILDING.

A separate and independent building sewer shall be provided for every building except where one building stands at the rear of another on an interior lot and no private sewer is available or can be feasibly constructed to the rear building. In such case, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

§ 15-408(1) SAME; SPECIFICATIONS.

The building sewer shall be constructed of cast iron pipe, ASTM specifications A74-42, or approved equal; vitrified clay sewer pipe, ASTM specifications C13-44T, or approved equal; or an approved plastic pipe. Any plastic pipe to be installed on any building sewer shall not be approved by the city until the owner has furnished descriptive literature and typical sample section of the plastic pipe proposed for installation, to the city for inspection and review. All joints on all pipe installed shall be tight and water-proof. Any part of the building sewer that is located within ten feet of a water service pipe or city water main shall be constructed of approved cast iron soil pipe with approved joints. No building sewer shall be installed within three feet of existing gas lines. If installed in filled or unstable ground, the building sewer shall be constructed of cast iron soil pipe, except that non-metallic material may be accepted if laid on a suitable concrete bed or cradle as approved by the city.

§ 15-408(2) SAME; SPECIFICATIONS; SIZE AND SLOPE OF BUILDING SEWER.

The size and slope of the building sewer to be installed shall be subject to the approval of the City Inspector, but in no event shall the diameter of the pipe be less than four inches. The slope at which a six inch pipe is to be laid shall be not less than one-eighth inch per foot and for four inch pipe, not less than one-fourth inch per foot. Any grades for the pipe, which are proposed for installation at grades less than these specified, shall be approved by the City Inspector prior to placement.

§ 15-408(3) SAME; SPECIFICATIONS; ELEVATION.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to or within three feet of any bearing wall, which might thereby be weakened. The depth shall be sufficient to afford protection from frost. The building sewer shall be laid at a uniform grade and in straight alignment insofar as possible. Changes in direction shall be made only with approved curved pipe and fittings, including cleanout fittings.

§ 15-408(4) SAME; SPECIFICATIONS; LIFT.

At buildings in which the building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer. The use of any pumping equipment for which cross-connections with a public water

supply system are needed, is prohibited. The total costs of pumping equipment and pumping equipment operational costs shall be those of the owner.

§ 15-408(5) SAME; SPECIFICATIONS; CESSPOOL, SEPTIC TANK OR VAULT.

No building sewer shall be laid across a cesspool, septic tank or vault until the cesspool, septic tank or vault has been well cleaned and filled with an approved earth or sand fill, then thoroughly tamped and water settled. Cast iron pipe may be used across cesspools or septic tanks, if proper bedding and support for the sewer pipe is acquired.

§ 15-408(6) SAME; SPECIFICATIONS; EXCAVATIONS.

All excavation required for the installation of the building sewer shall be open trench work unless otherwise approved by the city. Pipe laying and backfill shall be performed in accordance with ASTM specifications C12-19, except that no backfill shall be placed until the work has been inspected and approved.

§ 15-408(7) SAME; SPECIFICATIONS; JOINTS.

(a) All joints in the building sewers shall be made water-tight. If recommended by the City Inspector, a water pressure test shall be made on the completed sewer to ensure a compliance with this requirement, requiring that the building sewer withstand an internal water pressure of five psi, without leakage.

(b) Cast iron pipe with lead joints shall be firmly packed with oakum or hemp and filled with molten lead, federal specifications QQ-L-156, not less than one inch deep. Lead shall be run in one pour and caulked and packed tight. No paint, varnish or other coatings shall be permitted on the jointing material until after the joint has been tested and approved.

(c) All joints in vitrified clay pipe shall be the polyurethane-compression type joints, approved by the City Inspector.

(d) Joints for all plastic pipe used in building sewers shall be the slip type joints or solvent weld type, approved by the city.

(e) Joints between any two different types of pipes shall be made with lead, asphaltic jointing materials or concrete, as approved by the city. All joints shall be water-tight and constructed to ensure minimum root penetration and to the satisfaction of the city.

§ 15-409 SEWER EXCAVATIONS: DAMAGES.

All excavations for buildings sewers shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, curb and gutters, sidewalks, parkways and other public property removed or damaged during the installation of the building sewer shall be repaired or replaced in a manner acceptable to the city and at the total expense of the owner. It is further agreed that any parties involved in any excavating or installation work for sewer installations as above set out, will hold the city harmless from any and all damages to persons or property resulting from or growing out of any opening or excavation or any negligent act or from any operation made within the city.

§ 15-410 FAILURE TO CONNECT.

(a) If any person as defined in § 1-102 shall fail to connect any dwelling or building with the sewer system after being noticed, the city may cause such buildings to be connected with the sewer system as authorized by K.S.A. 12-631.

(b) The cost and expense, including inspection fees, shall be assessed against the property. Until such assessments shall have been collected and paid to the city, the cost of making such connection may be paid from the General Fund or through the issuance of no fund warrants.

§ 15-411 PRIVY UNLAWFUL.

It shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage except as provided in this article.

§ 15-412 PRIVATE SEWER SYSTEM.

Where a public sanitary sewer is not available under the provisions of § 15-402, the building sewer shall be connected to a private sewage disposal system complying with the provisions of §§ 15-411 to 15-416.

§ 15-413 SAME; PERMIT.

Before commencing construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the Utility Superintendent. The application shall be accompanied by any plans, specifications or other information deemed necessary by the Utility Superintendent. A permit and inspection fee of \$25 shall be paid to the city at the time the application is filed.

§ 15-414 SAME; INSPECTION.

The Utility Superintendent or his or her authorized representative shall be allowed to inspect the work at any stage of construction and the applicant shall notify the Superintendent when the work is ready for final inspection or before any underground portions are covered. The inspection shall be made within 48 hours of the receipt of notice by the Superintendent.

§ 15-415 SAME; DISCHARGE.

(a) The type, capacities, location and layout of the private sewage disposal system shall comply with all recommendations and requirements of the Water Pollution Control Section of the State Department of Health and Environment. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than one acre. No septic tank or cesspool shall be permitted to discharge to any public sewer or natural outlet.

(b) At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in § 15-402, a direct connection shall be made to the public sewer in compliance with this article, and any septic tank, cesspool and similar private sewage disposal facilities shall be abandoned and filled with suitable and acceptable materials.

§ 15-416 SAME; ADDITIONAL REQUIREMENTS.

No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the City or County Health Officer.

§ 15-417 DISPOSAL OF SEWAGE.

It shall be unlawful for any person to deposit or discharge from any source whatsoever any sewage or human excrement upon any public or private grounds within the city, or to permit the contents of any privy, vault or septic tank to be deposited or discharged upon the surface of any grounds. Any unauthorized or unapproved privy vault, septic tank or other means or places for the disposal of sewage, excrement and polluted water may be abated as a public nuisance upon the order of the City or County Board of Health in accordance with the laws of the state.

(K.S.A. 12-1617e, 12-1617g)

§ 15-418 DAMAGE TO SEWERS.

It shall be unlawful for any unauthorized person to maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any sewer, structure, appurtenance or equipment which is part of the municipal sewer system.

§ 15-419 NATURAL OUTLET.

It shall be unlawful to discharge to any natural outlet within the city or in any area under the jurisdiction of the city any sanitary sewage, industrial wastes or other polluted waters except where suitable treatment has been provided in accordance with the provisions of this article.

§ 15-420 STANDARDS.

The size, slope, alignment, materials, excavation, placing of pipe, jointing, testing and backfilling shall all conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the city.

§ 15-421 OLD BUILDING SEWERS.

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Utility Superintendent, to meet all requirements of this article.

§ 15-422 MUD, GREASE TRAPS.

All garages, filling stations, milk plants or other commercial or industrial plants connected to the public sewer shall construct and maintain proper and sufficient interceptors or traps to prevent the discharge of any sand, mud, sediment, litter, waste or any substance harmful to the effective operation and maintenance of the city sewer system, into the building sewer.

§ 15-423 ROOF, FOUNDATION DRAINS.

(a) It shall be unlawful to connect downspouts from any roof area, drains from any building foundation, paved areas, yards or open courts, or to discharge liquid wastes from any air conditioning unit or cooling device having a capacity in excess of one ton per hour or one horsepower into any city sanitary sewer.

(b) All discharges prohibited in division (a) above may be discharged into the public gutter or storm drains or open drainage ditches provided such discharge does not create a nuisance. No such liquids may be discharged into any unpaved street or alley.

§ 15-424 SAME; EXCEPTION.

Discharges from air conditioning units in excess of one ton per hour or one horsepower may be permitted into a building sewer upon approval of the Utility Superintendent where there is a finding that

such cooling water cannot be recirculated and that such waste water does not overload the capacity of the sewer or interfere with the effective operation of the sewage disposal works of the city.

§ 15-425 PROHIBITED DISCHARGES.

No person shall discharge any of the following waters or wastes to any public sewer:

- (a) Liquid or vapor having a temperature higher than 150°F;
- (b) Water or waste that may contain more than 100 parts per million, by weight, of fat, oil or grease;
- (c) Gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas;
- (d) Garbage that has not been properly shredded;
- (e) Ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure or any other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works;
- (f) Waters or wastes having a ph lower than 5.5 or higher than 9.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works;
- (g) Waters or wastes containing a toxic poisonous substance in sufficient quantity to injury or interfere with any sewage treatment process, constitute a hazard to humans or animals, or create any hazard in the receiving waters of the sewage treatment plant;
- (h) Water or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant; and
- (i) Noxious or malodorous gas or substance capable of creating a public nuisance.

§ 15-426 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 15 consecutive days shall be billed at no less than one-half of the regular minimum monthly rate. For service of 15 consecutive days or more the charge shall be not less than full regular minimum monthly rate.

§ 15-427 DELINQUENT ACCOUNTS; LIEN AGAINST PROPERTY; OTHER REMEDIES.

(a) In the event any person, except the United States and the state, shall fail to pay the user charges when due, water service shall be terminated as provided in §§ 15-102 to 15-104.

(b) All other remedies regarding delinquent accounts, and exceptions thereto, contained in § 15-106 shall apply to sewer service fees, charges and services.

§ 15-428 SEWER SERVICE CHARGE.

The monthly charge for sewer service shall be as set by the governing body.
(Ord. 365, passed 6-15-2005; Ord. 378, passed - -2008; Ord. 406, passed 11-13-2012)

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 Charges
- 15-516 Same; fee schedule
- 15-517 Billing
- 15-518 Same; delinquent account

§ 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.

§ 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.

§ 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.

§ 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.

§ 15-505 CONTAINERS.

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.

§ 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.

§ 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.

§ 15-508 OWNERSHIP OF SOLID WASTE.

(a) 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.

(b) No person shall meddle with refuse containers or in anyway pilfer or scatter contents thereof in any alley or street within the city.

§ 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.

§ 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.

§ 15-511 HAZARDOUS MATERIALS.

(a) No person shall deposit in a solid waste container or otherwise offer for collection any hazardous garbage, refuse or waste.

(b) Hazardous material shall include:

(1) Explosive materials;

(2) Rags or other waste soaked in volatile and flammable materials;

(3) Chemicals;

(4) Poisons;

(5) Radio-active materials;

(6) Highly combustible materials;

(7) Soiled dressings, clothing, bedding and/or other wastes, contaminated by infection or contagious disease; and

(8) Any other materials that may present a special hazard to collection or disposal personnel, equipment, or to the public.

§ 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.

§ 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.

§ 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.

§ 15-515 CHARGES.

The city shall establish and collect a service charge to defray the cost and maintenance of the collection and disposition of solid waste within the city.

§ 15-516 SAME; FEE SCHEDULE.

The governing body of the city hereby finds and determines that the monthly rates or charges for collection and disposal of residential solid waste by the contractor holding a valid contract with the city shall be as specified below, subject, however, to such changes therein and revisions therein and revisions thereof as may be deemed necessary from time to time by the city:

(a) Residential Rate: Single and multi-family regular solid waste service rate per dwelling unit per month, shall be as follows: \$17; and

(b) For residences requesting more than the one polycart provided, any additional polycarts shall be \$3 per polycart per month.

(Ord. 374, passed 2-4-2007; Ord. 418, passed 9-12-2016)

§ 15-517 BILLING.

Solid waste charges shall be billed monthly and shall be included on water or utility bills. No payment shall be accepted on utility bills except for the full amount billed for all services. Delinquent solid waste bills shall carry the due dates, grace periods and penalties as water bills.

§ 15-518 SAME; DELINQUENT ACCOUNT.

In the event the owner or occupant of any property shall fail to pay the solid waste bills within 60 days following the date upon which it becomes due, the City Clerk shall annually certify such unpaid bills to the County Clerk as a lien upon the property. The lien shall be collected subject to the same regulations and penalties as other property taxes are collected.

(K.S.A. 65-3410)

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 the declaration of a water supply emergency and the implementation of voluntary and mandatory water conservation measures throughout the city in the event such an emergency is declared.

§ 15-602 DEFINITIONS.

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

CLASSES OF WATER. The following classes of water uses are established:

(a) **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 area; or the washing of motor vehicles, boats, trailers or the exterior of any building or structure.

(b) **CLASS 2.** Water used for any commercial or industrial, including agricultural, purposes; except water actually necessary to maintain the health and personal hygiene of bona fide employees while such employees are engaged in the performance of their duties at their place of employment.

(c) **CLASS 3.** Domestic usage, other than that which would be included in either Classes 1 or 2.

(d) **CLASS 4.** Water necessary only to sustain human life and the lives of domestic pets and maintain standards of hygiene and sanitation.

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:

- (a) Permitting water to escape down a gutter, ditch or other surface drain; or
- (b) Failure to repair a controllable leak of water due to defective plumbing.

WATER. Water available to the city for treatment by virtue of its water rights or any treated water introduced by the city into its water distribution system, including water offered for sale at any coin-operated site.

§ 15-603 DECLARATION OF A 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 encourage voluntary water conservation or 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.

§ 15-604 VOLUNTARY CONSERVATION MEASURES.

Upon the declaration of a water supply emergency as provided in § 15-603, the Mayor is authorized to call on all water consumers to employ voluntary water conservation measures to limit or eliminate non-essential water uses including, but not limited to, limitations on the following uses:

- (a) Sprinkling of water on lawns, shrubs or trees (including golf courses);
- (b) Washing of automobiles;
- (c) Use of water in swimming pools, fountains and evaporative air conditioning systems; and
- (d) Waste of water.

§ 15-605 MANDATORY CONSERVATION MEASURES.

Upon the declaration of a water supply emergency as provided in § 15-603, the Mayor is also authorized to implement certain mandatory water conservation measures, including, but not limited to, the following:

- (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 before the effective date of the declaration of the emergency;
- (b) Restrictions on the uses of water in one or more classes of water use, 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 foregoing measures.

§ 15-606 EMERGENCY WATER RATES.

(a) Upon the declaration of a water supply emergency as provided in § 15-603, 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 the 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).

§ 15-607 REGULATIONS.

During the effective period of any water supply emergency as provided for in § 15-603, the Mayor 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.

§ 15-608 VIOLATIONS, DISCONNECTIONS AND PENALTIES.

(a) If the Mayor, Water Superintendent or other city official or officials charged with implementation and enforcement of this article or a water supply emergency resolution or ordinance 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 any other person known to the city who is responsible for the violation or its correction shall be provided with either actual or mailed notice. The notice shall describe the violation and order that it be corrected, cured or abated immediately or within such specified time as the city determines is reasonable under the circumstances. If the order is not complied with, the city may terminate water service to the customer subject to the following procedures.

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

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

(3) The governing body or Hearing Official 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 violation and \$300 for any additional violations.

(c) Violation 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 day's violation shall constitute a separate offense. The penalty for an initial violation shall be a mandatory fine of \$100. In addition, such customer may be required by the Court to serve a definite term of confinement in the city or county jail which shall be fixed by the Court and which shall not exceed 30 days. 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.

§ 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 service connections as required to protect the health and safety of the public.

CHAPTER XVI: ZONING AND PLANNING

Article

- 1. CITY PLANNING COMMISSION/BOARD OF ZONING APPEALS**
- 2. ZONING REGULATIONS**
- 3. SUBDIVISION REGULATIONS**
- 4. MOBILE HOMES**

ARTICLE 1: CITY PLANNING COMMISSION/BOARD OF ZONING APPEALS

Section

- 16-101 Commission re-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 RE-ESTABLISHMENT.

There is hereby re-established the 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 designated planning area of the city that is within at least three miles of the corporate limits of the city. The Planning Commission was originally created by Ord. 294, which was passed and approved on 5-7-1990.

§ 16-102 MEMBERSHIP, TERMS, INTEREST AND COMPENSATION.

The members of the Planning Commission shall be appointed by the Mayor with the consent of the governing body at the first regular meeting of the governing body in May of each year and take office at the next regular meeting of the Commission. All members shall be appointed for staggered 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. By the re-establishment of the Commission, all current members continue to serve their present terms of office. In case of death, incapacity, resignation or disqualification of any member, appointment to such a vacancy on the Commission shall be made of the unexpired term of the member leaving the membership. Should any member have a conflict of interest, either directly or indirectly, in any matter coming before the Commission, he or she shall be disqualified to discuss or vote on the matter. 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.

§ 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. The Commission shall adopt bylaws for the transaction of business and hearing procedures. All actions by the Commission shall be taken by a majority vote of the entire membership of the Commission; except that, a majority of the members present and voting at the hearing shall be required to recommend approval or denial of an amendment to the zoning regulations, a rezoning amendment or a special use permit. 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.

§ 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 section 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.

§ 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. Such bylaws shall be subject to the approval of the governing body. 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 question or appeal. A majority of the members of the Board present and voting at the hearing shall be required to

decide any appeal. Subject to subsequent approval of the governing body, the Board shall establish a scale of reasonable fees to be paid in advance by the appealing party.

§ 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 monies are available under the budget, the governing body may appropriate monies 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 monies from the state or federal government or from any other resource for such purposes.

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. _____, passed _____ and entitled, "Zoning Regulations of the City of LeRoy, Kansas". One copy of the zoning regulations, marked "Official Copy as Incorporated by the Code of the City of LeRoy" and to which there shall be a published copy of this section attached, shall be filed with the City Clerk to be open for inspection and available to the public at all reasonable business hours.

ARTICLE 3: SUBDIVISION REGULATIONS

Section

16-301 Regulations incorporated

§ 16-301 REGULATIONS INCORPORATED.

There are hereby incorporated by reference, as if set out fully herein, certain regulations governing the subdivision of land located within the city and certain surrounding area as described therein, as adopted by the governing body of the city. One copy of the subdivision regulations marked “Official Copy as incorporated by the Code of the City of LeRoy”, and to which there shall be a published copy of this section attached, shall be filed with the City Clerk to be open for inspection and available to the public at all reasonable hours.

ARTICLE 4: MOBILE HOMES

Section

- 16-401 Definitions
- 16-402 Permits
- 16-403 Location and spacing
- 16-404 Use limitations
- 16-405 Water and sewer connections
- 16-406 Existing non-conforming uses
- 16-407 Mobile home park design
- 16-408 Construction permit
- 16-409 Annual license
- 16-410 Management
- 16-411 Enforcement
- 16-412 Nuisance
- 16-413 Penalty

§ 16-401 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 built for the support, shelter or enclosure of persons, chattels, businesses or property of any kind.

HOUSE TRAILERS or ***RECREATIONAL VEHICLE (RV).*** A vehicle or a unit that may be independently motorized or may be mounted on or drawn by another vehicle. ***HOUSE TRAILERS*** or ***RVs*** are primarily designed and used for travel, camping, recreation, temporary living or occasional use. ***RVs*** include motor homes, mini-motor homes, converted buses, converted camper vans, pickup and truck campers, camping trailers, fifth-wheel trailers and horse trailers equipped with living quarters. Conventional vans and pickup trucks with or without “toppers” that are no larger than the truck box or higher than the truck cab are not considered to be ***RECREATIONAL VEHICLES***, nor are small trailers used for hauling animals, equipment, personal property or household goods of the occupant of the dwelling whereon such trailer is parked.

INSPECTOR. The Mayor, City Clerk or any other person designated by the City Council to inspect the location and condition of manufactured/mobile homes, or the location, condition or operation of manufactured/mobile home parks. The ***INSPECTOR*** is also responsible for issuance of permits and to notify the City Council, in writing, when conditions warrant the revocation of a permit prior to its expiration date.

MANUFACTURED/MOBILE HOME. A factory built structure or structures equipped with the necessary service connections and made so as to be transportable as a unit or units on its own running gear and designed to be used as a permanent dwelling unit with or without permanent foundation. The transportation system is designed so that the home may be moved from time to time at the convenience of the owner. The term shall include two or more separately towed units which are designed to be bolted or otherwise fastened together to form a complete living unit. Such homes are built on a chassis consisting of a draw-bar and coupling mechanism, frame, running gear assembly and lights. Removal of any or all of these component parts does not change the definition. These structures are designed for long-term occupancy and contain accommodations, a flush toilet, tub or shower bath, kitchens, facilities and having plumbing and electrical connections provided for permanent connection to outside system.

MANUFACTURED/MOBILE HOME PARK. Any area, piece, parcel, tract or plot of ground equipped as required for support of manufactured/mobile homes and used or intended to be used by two or more occupied or unoccupied homes whether new or used and whether owned or rented by the occupants. Such parks shall be under one ownership and control, but under no circumstance shall home spaces be sold or offered for sale individually. The definition of a ***PARK*** does not include a sales area on which unoccupied homes, whether new or used, are parked for the purpose of storage, inspection or sale. A manufactured/mobile home may, however, remain on a space for the purpose of sale by the resident owner.

MANUFACTURED/MOBILE HOME SPACE. The area of land set aside for use by one manufactured/mobile home. This space includes the open space around said manufactured/mobile home.

MODULAR/RESIDENTIAL-DESIGN MANUFACTURED HOME. A dwelling structure located on a permanent foundation and connected to public utilities, consisting of pre-selected, pre-fabricated units or modules or completely fabricated structures. These dwellings are transported to and/or assembled on the site of its foundation; in contrast to a dwelling structure that is custom built (site built) at the site of its permanent location and also in contrast to a manufactured home, either single-width, double-width or multi-width, located on its permanent foundation. In general, such ***MODULAR HOMES*** shall be fabricated using construction methods and materials and have appearance similar to custom built (site built) single-family dwellings. An additional distinction is that these homes will be delivered to the site on transportation equipment designed for re-use on other assemblies produced at the fabrication facility.

OCCUPY, OCCUPANCY or OCCUPIED. The use of any dwelling for sleeping, living, cooking or eating purposes.

PARK. Manufactured/mobile home park.

PERSON. Any individual, firm, trust, partnership, limited liability company, association or corporation, or any combination of the same.

SITE BUILT HOME. A home built at a permanent location, on a foundation or slab, from dimensional lumber and other raw or engineered components. Prefabrication of components in such dwellings is generally limited to doors, windows and appliances. This classification is in contrast to a dwelling that has been wholly or partially built at an off site location (e.g., factory) and moved to its permanent location.

(Ord. 351, passed 12-2-2002)

§ 16-402 PERMITS.

(a) Anyone desiring to locate a mobile home in a residential district of the city shall first procure a permanent permit valid as long as the occupant or owner and structure fully comply with all applicable city ordinances.

(b) Locating a mobile home on a lot without a building may be for an unlimited period of time; however, if a building (other than a garage) is upon the premises, such will be considered a temporary permit and such mobile home may not be in said location for more than five months.

(c) Any mobile home owner or renter or mobile home park owner desiring to locate a mobile home or mobile home park in a residential district other than an existing mobile home park shall obtain written permission to do so from all property owners within a radius of 250 feet of the proposed location of the mobile home and have found its use to comply with all city ordinances and regulations.

(d) An owner of a mobile home shall first obtain a location use permit from the City Clerk. No permit shall be issued unless a duly authorized representative of the city shall first have inspected the proposed location and condition of the mobile home and have found its use to comply with all city ordinances, regulations or any applicable safety, fire or building codes.

(e) All applications for a location use permit shall state the address of the proposed site, the applicant's name and a drawing showing the location in relation to adjoining property lines, buildings, mobile homes, streets and alleys. Application shall be accompanied by a fee of \$25.

(f) A mobile home permit will not be issued for mobile homes used for permanent or long-term storage of materials and property, or for commercial use.

(Ord. 351, passed 12-2-2002)

§ 16-403 LOCATION AND SPACING.

All mobile homes shall be located so as to conform to the following requirements.

(a) No mobile home shall be allowed unless it is determined by the Inspector to be in compliance with the current mobile home safety standards adopted in K.S.A. 75-1220 and any amendments thereto. The inspector's fee shall be paid by the owner of the mobile home.

(b) No mobile home with hail damaged siding or any other siding, roofing or window damage or sprung frame will be allowed.

(c) Single, double or multiple wide mobile homes are allowed only in trailer park or mobile home subdivisions unless the following conditions are met.

(1) New single, double or multiple wide mobile homes are allowed in any residential area where the estimated fair market value of the proposed mobile home and lot (after sale) meets or exceeds the fair market value of 75% of the dwellings within a 250-foot radius of the proposed location. The fair market value of the single, double or multiple wide mobile home (and lot) must be verified by a licensed appraiser and a report listing the fair market value, as determined by the County Appraiser, of the surrounding properties must be filed with the City Clerk. A report of these findings shall be submitted with the permit application.

(2) Double or multiple wide mobile homes shall be placed on a permanent foundation. If a basement, garage or outbuilding(s) is planned, the basement may be included in the valuation, but not the outbuildings or garage.

(3) The double or multiple wide mobile home must match the architectural aesthetic properties of the surrounding dwellings in the neighborhood.

(d) Modular and residential-design manufactured homes are allowed in any residential district.

(e) No mobile home or any part thereof shall be located on any lot already occupied by a house except as described in § 16-402(b) (temporary permit).

(f) No mobile home or part thereof shall be located within any designated city fire zone.

(g) The minimum mobile home space shall be 5,000 square feet for mobile home parks and 7,000 square feet (one 140 by 50 lot) for the city at large. Only one mobile home can be placed upon a space.

(h) No mobile home or any structure shall be located closer than 30 feet from any other building, house, mobile home or city street.

(i) No more than one mobile home may be located upon any one platted city lot.

(j) No two single wide mobile homes are to be connected on a single mobile home space.

(k) No more than one mobile home may be placed on any land contiguously owned by the same person (notwithstanding adequate mobile home space) unless such land is permitted mobile home park.

(l) Mobile homes or trailers may be allowed to be placed for temporary offices on the site of construction projects and for additional space for schools. No fee or permit is required for these purposes.

(Ord. 351, passed 12-2-2002; Ord. 362, passed 11-1-2004)

§ 16-404 USE LIMITATIONS.

The following performances standards shall apply to all mobile homes.

(a) *Minimum mobile home size.* Any mobile home shall have a minimum width of ten feet and contain a minimum of 450 square feet.

(b) *Skirting.* Any mobile home shall be provided with skirting on all sides and shall be of a non-flammable material harmonious to the mobile home.

(c) *Blocking.* All mobile homes shall be blocked at a maximum of ten-foot centers around the perimeter of each mobile home and this locking shall provide 16 inches by 16 inches bearing upon the stand, or as specified by the mobile home manufacturer.

(d) *Utilities.* All utility connections shall be in conformance with any city codes and the State Fire Codes.

(e) *Tie-downs and ground anchors.* All mobile homes shall be secured to the ground by the tie-downs and ground anchors in accordance with the Mobile Home and Recreational Vehicle Code, K.S.A. 75-1211 to 75-1234, or as may be amended from time to time.

(f) *Ingress and egress.* All mobile homes shall have sufficient steps and/or decking to allow safe ingress and egress through all doors of the mobile home. Said steps and/or decking shall be anchored to the ground and/or mobile home or in some other manner sufficient to immobilize the steps and/or decking.

(g) *Placement over gas line.* No mobile home shall be placed or allowed to continue to be placed over a propane or natural gas line.

(Ord. 351, passed 12-2-2002)

§ 16-405 WATER AND SEWER CONNECTIONS.

Each mobile home, whether located in a mobile home park or an individual lot, shall have a separate water meter and connection to the water supply. The water meters will be read by the city. Management of any mobile home park, as defined herein, shall be responsible for unpaid bills. Service will be terminated to delinquent accounts and a \$50 fee for the first offense, \$75 fee for the second offense, and \$100 fee for the third offense will be charged by the city to turn the water service on again. All mobile homes shall be connected to the city sewage system and be charged the same water and sewage connection and use fees as business and conventional homes.

(Ord. 351, passed 12-2-2002)

§ 16-406 EXISTING NON-CONFORMING USES.

(a) A use of land existing prior to the date of publication of this article shall be allowed to continue, provided compliance with the following conditions: the owner is registered with the city and holds a certificate of non-conforming use issued by the city prior to March 1, 2003. The registration should include:

- (1) Name of the owner of the real estate;
- (2) Name of the owner of the mobile home;
- (3) Size of the mobile home;
- (4) Manufacturer of the mobile home; and
- (5) Serial number of the mobile home.

(b) Such registration and certificate shall not prevent the city from requiring all mobile homes to have separate water meters and shall not exempt the mobile home owner from any ordinances or fee regarding use of city water or sewer system. The mobile home must additionally be in compliance with the skirting, utilities, ingress and egress, and tie down/ground anchor provisions stated in § 16-404 herein. In the event any mobile home is 50% or more destroyed or is removed from the property which has received a certificate or non-conforming use, all provisions of this article must be met to replace the non-conforming mobile home or evidence of severe hardship must be presented at a hearing. Final decision in such cases is to be made by the City Council. The owner of such real estate must comply with all the following:

- (1) The proposed replacement mobile home is of equal or greater size than the destroyed mobile home;
- (2) The proposed replacement mobile home is of equal or greater fair market value, after purchase, than the destroyed mobile home;

(3) The proposed replacement mobile home is located in basically the same location; and

(4) All lot size (mobile home space) and yard requirements set forth are still met.
(Ord. 351, passed 12-2-2002)

§ 16-407 MOBILE HOME PARK DESIGN.

All mobile home parks shall be designed so as to conform to the following requirements.

(a) A storm shelter shall be required with sufficient space for the residents of said mobile home park. Sufficient space shall be the amount of space needed to provide shelter for at least two people per mobile home unit in said park. A storm shelter is required.

(b) Adequate lighting is required.

(c) Streets to be concrete, asphalt, chip and seal or compacted stone six inches thick. Maintenance of streets are to be the responsibility of park management.

(d) Driveways (parking) for individual lots to be concrete, asphalt or compacted stone six inches thick.

(e) Each mobile home located within a mobile home park shall be provided with a minimum of two off-street parking spaces adjoining the mobile home.

(f) All mobile homes within the mobile home park shall conform to the city spacing requirements.

(g) A fence or hedge at least six feet tall shall be installed adjoining a tract of land used for other than a mobile home park. A ten-foot landscaped buffer between the fence and property line shall be required. None of this buffer should be included in the minimum lot/space size.
(Ord. 351, passed 12-2-2002)

§ 16-408 CONSTRUCTION PERMIT.

(a) Construction of a mobile home park shall begin only after a permit has been issued by the City Council. No such permit shall be granted until a development plan for the proposed mobile home park has been prepared and submitted by the developer to the Council, and found satisfactory.

(b) Such plan shall be accurately drawn and show the following:

(1) Proposed street and drive patterns;

(2) Proposed mobile home spaces and their approximate dimensions;

(3) Any existing streets in or abutting the property;

(4) Location and size of parking spaces; and

(5) Name and address of developer and projected date of construction.

(Ord. 351, passed 12-2-2002)

§ 16-409 ANNUAL LICENSE.

All mobile home parks shall be subject to an annual license, which may be issued by the City Council. Compliance with this article and all other codes of the city shall be necessary prior to issuance of renewal. The initial annual fee for such license shall be \$40 for the first year and \$20 for each year thereafter.

(Ord. 351, passed 12-2-2002)

§ 16-410 MANAGEMENT.

Each mobile home park shall be operated in a sanitary, orderly and efficient manner and shall maintain a neat appearance at all times. The owner and/or operator shall be responsible for effective disposal of refuse, insect and rodent control and fire prevention measures and shall be in conformity with regulations of the State Fire Marshal.

(Ord. 351, passed 12-2-2002)

§ 16-411 ENFORCEMENT.

The owner and/or operator of the mobile home park shall be responsible for the conformance to all plans, codes and conditions set out for mobile home parks. Any deviation or non-performance, or unhealthful and unsanitary conditions shall constitute grounds for the cancellation of a license or permit or refusal of the City Council to renew a license. Property owners on which mobile homes are located which are not mobile home parks shall have the responsibility to conform to all ordinances applying to mobile homes.

(Ord. 351, passed 12-2-2002)

§ 16-412 NUISANCE.

Nothing contained in this article shall be deemed or construed to authorize the maintenance of a public nuisance as defined by statute, ordinance or regulation. No use of land, whether existing prior

to or after the effective date of this article, shall be authorized or permitted to maintain junked, wrecked, dismantled, uninhabitable or abandoned mobile homes, manufactured homes, house trailers or recreational vehicles that would adversely effect the health, safety or welfare of the inhabitants of the city, or of any neighborhood, family or resident of the city.

(Ord. 351, passed 12-2-2002)

§ 16-413 PENALTY.

Any willful failure to comply with any provision of this article shall be deemed a misdemeanor punishable by a fine of not less than \$100 per violation and no more than \$500 per violation. Each day a person fails to comply with the provisions of this article shall be considered a separate offense. An action for violation of this article shall be prosecuted through the Municipal Court.

(Ord. 351, passed 12-2-2002)

TABLE OF SPECIAL ORDINANCES

Table

- I. CHARTER ORDINANCES**
- II. FRANCHISES AND AGREEMENTS**

TABLE I: CHARTER ORDINANCES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
1	4-14-1969	Exempting city from K.S.A. 79-1953, relating to a tangible property tax levy of 14 mils in its General Operating Fund
244a	4-2-1979	Exempting the city from K.S.A. 15-201, relating to the election of city officers
2	5-4-1981	Exempting city from K.S.A. 79-5001 through 79-5017, relating to the Aggregated Tax Levy Limitation Law
3	9-4-1981	Exempting city from K.S.A. 79-5001 through 79-5017, relating to the Aggregated Tax Levy Limitation Law
4	3-4-1985	Exempting city from K.S.A. 79-5001 through 79-5017, relating to the Aggregated Tax Levy Limitation Law
6	3-4-1991	Exempting city from K.S.A. 15-201, relating to: election of Mayor and Council members; their terms of office; filling vacancies
7	12-29-2004	Exempting city from K.S.A. 12-4112
8	12-15-2011	Exempting city from K.S.A. 66-1801 et seq., relating to the Kansas Underground Utility Damage Prevention Act
9	12-12-2016	Exempting city from K.S.A. 15-201, relating to: election of officers; their terms of office; transitions to November elections; filling governmental body vacancies; nomination petitions

TABLE II: FRANCHISES AND AGREEMENTS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
17	2-5-1902	Granting a telephone operation franchise to the LeRoy Telephone Company
28	10-6-1904	Granting a natural and artificial gas franchise to Sherbrooke Gas and Oil Company
34	1-3-1906	Granting a spur track franchise to G.W. Ringle
36	1-2-1907	Granting a spur track franchise to Missouri Pacific Railway Company
66	11-5-1919	Granting a franchise to Standard Oil Company
78	8-11-1924	Granting a utilities franchise to Kansas Utilities Company
94	2-15-1928	Granting a natural and manufactured gas franchise to Lloyd D. Burton
101	- -	Selling electric power plant equipment to Kansas Utilities Company; lease
102	- -	Granting an electricity franchise to Kansas Utilities Company
106	10-2-1930	Granting a fuel, light and heat distribution franchise to Union Gas Corporation
122	1-2-1935	Granting an electricity franchise to Kansas Utilities Company

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<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
143	2-1-1939	Granting an electricity franchise to Kansas Utilities Company
157	12-13-1944	Granting an electricity franchise to Easter Kansas Utilities, Inc.
181	4-7-1954	Granting an electric light, heat and power franchise to Kansas Gas and Electric Company
182	4-7-1954	Granting an electric service franchise to Kansas Gas and Electric Company
200	11-8-1963	Granting an electric service franchise to Kansas Gas and Electric Company
204	4-6-1966	Cancelling a lease on dumping ground owned by Bertie Draper
214	3-5-1969	Granting a telephone system franchise to Kansas Telephone Company
222	12-6-1972	Granting an electric service franchise to Kansas Gas and Electric Company
226	11-7-1972	Granting an electric service agreement to Kansas Gas and Electric Company
227	2-6-1974	Granting a community television franchise to LeRoy Community T.V. Company
250	7-7-1980	Amending Ord. 227
262	1-17-1983	Amending Ord. 227
264	11-7-1983	Granting an electric service agreement to Kansas Gas and Electric Company

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
268	6-4-1984	Amending Ord. 227
313	11-1-1993	Granting an electric service agreement to Kansas Gas and Electric Company
314	12-29-1993	Granting an electric service franchise to Kansas Gas and Electric Company
320	4-1-1996	Granting a telephone franchise to United Telephone Company of Iowa
330	6-7-1999	Extending the expiration date of a cable television franchise agreement with U.S. Cable Group, L.P.
331	8-2-1999	Granting a basic cable television franchise to MediaCom Southeast, LLC
427	7-1-2019	Granting a telecommunications franchise to JMZ Corporation, doing business as KwiKom Communications

PARALLEL REFERENCES

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REFERENCES TO KANSAS STATUTES ANNOTATED

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8-1102	8-311
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1	4-14-1969	TSO Table I
244a	4-2-1979	TSO Table I
2	5-4-1981	TSO Table I
3	9-4-1981	TSO Table I
4	3-4-1985	TSO Table I
6	3-4-1991	TSO Table I
7	12-29-2004	TSO Table I
8	12-15-2011	TSO Table I
9	12-12-2016	TSO Table I

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222	12-6-1972	TSO Table II
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