

CODE
OF THE
CITY OF ELLIS
KANSAS

Published Under the Authority and by the Direction of
The Governing Body of the City of Ellis,
Kansas, this 21st day of September, 2009.

A Codification of the General Ordinances
of the City of Ellis, Kansas

ROSTER OF CITY OFFICIALS

CITY OF ELLIS

GOVERNING BODY

Mayor

David R. McDaniel

Council Members

Dave Basgall
John Walz
Dave Wilson

Charlie Kinderknecht
Dave Bittel
Kip Johnson

Administrative Officials

Mary Jo Walz
City Clerk

Olavee Raub
City Attorney

Faith Scheck
City Treasurer

Ross Wichman
Municipal Judge

Les Weber
Fire Chief

Gary Haddock
Public Works

Randy Taylor
Police Chief

PREFACE

This volume contains the Code of the City of Ellis, Kansas, 2009. As expressed in the adopting ordinance, the code supercedes all ordinances passed prior to September 21, 2009 which are not included herein or recognized as continuing in force by reference thereto. The code was prepared by the staff of the League of Kansas Municipalities and Ellis City Officials under the authority of Sections 12-3014:3015 of the Kansas Statutes Annotated.

This code is arranged in chapters, articles, and sections in a manner similar to the Kansas Statutes Annotated arrangement. Headnotes and footnotes are included; however, these do not constitute a part of the code and no implication or presumption of intent or construction is to be drawn therefrom.

Any section of this code may be amended or repealed by ordinary ordinance by reference to the code section number as follows:

"Section 1-105 of the Code of the City of Ellis 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 Ellis is hereby amended by adding a section (or article or chapter) which reads as follows: (the new provision shall be set out in full)."

All sections or articles or chapters to be repealed shall be repealed by specific reference as follows:

"Section 1-105 (or article or chapter) of the Code of the City of Ellis is hereby repealed."

The user's attention is directed to the **Governing Body Handbook**, published by the League of Kansas Municipalities, both as a source of general information and as an index to the pertinent sections of the Kansas Statutes Annotated.

An index is included in this volume, and the user's attention is also directed to indexes which may appear in standard codes incorporated by reference in this Code.

PREPARED AND PUBLISHED BY
LEAGUE OF KANSAS MUNICIPALITIES

Moji S. Fanimokun
Staff Attorney

ORDINANCE NO. 1039

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE CODIFICATION OF THE GENERAL ORDINANCES OF THE CITY OF ELLIS, KANSAS, AND THE PUBLICATION OF SUCH CODIFICATION IN PERMANENTLY BOUND OR LOOSELEAF BOOK FORM.

Be it Ordained by the Governing Body of the City of Ellis:

Section 1. That a codification of the general ordinances of the City of Ellis, Kansas, including supplements thereto, as authorized by K.S.A. 12-3014 and 12-3015, is hereby ordered, authorized and provided for, the preparation of which shall be done by the League of Kansas Municipalities as provided by contract. When completed, the codification shall be adopted by ordinance and published together with the adopting ordinance in loose-leaf book form. No fewer than 10 copies shall be published. Such codification shall be entitled, "Code of the City of Ellis, Kansas," of the year in which the work is completed and ready for publication. The said code shall be duly certified by the City Clerk. One copy of the code shall be filed in the office of the City Clerk and shall be designated as and shall constitute the official ordinance book. Three additional copies shall be filed in the office of the city clerk and shall be designated for use by the public.

Section 2. That this ordinance shall take effect and be in force from and after its publication once in the official city newspaper.

Passed and Approved by the Governing Body this 14th day of February, 1989.

/s/ John R. Binder, Mayor

ATTEST: /s/ Mary Jo Carpenter, City Clerk

(SEAL)

ORDINANCE NO. 1299

AN ORDINANCE ADOPTING THE CODIFICATION OF ORDINANCES OF THE CITY OF ELLIS, KANSAS, AUTHORIZED BY ORDINANCE NO. 1299 PROVIDING FOR THE REPEAL OF CERTAIN OTHER ORDINANCES NOT INCLUDED THEREIN, EXCEPTING CERTAIN ORDINANCES FROM REPEAL AND SAVING CERTAIN ACCRUED RIGHTS AND LIABILITIES.

Be it Ordained by the Governing Body of the City of Ellis, Kansas:

Section 1. The codification of ordinances of the City of Ellis, Kansas, authorized by Ordinance No. 1299 and K.S.A. 12-3014 and 12-3015, as set out in the following chapters, Chapters I to XVI and Appendices A and B, all inclusive, and entitled the "Code of the City of Ellis, Kansas, 2009," is hereby adopted and ordained as the "Code of the City of Ellis, Kansas, 2009," and said codification shall become effective upon publication of no fewer than 10 copies of said code in book form.

Section 2. All ordinances and parts of ordinances of a general nature passed prior to September 21, 2009, in force and effect at the date of the publication of no fewer than 10 copies of the "Code of the City of Ellis Kansas, 2009," and this ordinance, are hereby repealed as of the date of publication of said code except as hereinafter provided.

Section 3. In construing this ordinance, the following ordinances shall not be considered or held to be ordinances of a general nature:

- (a) Ordinances pertaining to the acquisition of property or interests in property by gift, purchase, devise, bequest, appropriation or condemnation;
- (b) Ordinances opening, dedicating, widening, vacating or narrowing streets, avenues, alleys and boulevards;
- (c) Ordinances establishing and changing grades of streets, avenues, alleys and boulevards;
- (d) Ordinances naming or changing the names of streets, avenues and boulevards;
- (e) Ordinances authorizing or directing public improvements to be made;
- (f) Ordinances creating districts for public improvements of whatsoever kind or nature;
- (g) Ordinances levying general taxes;
- (h) Ordinances levying special assessments or taxes;
- (i) Ordinances granting any rights, privileges, easements or franchises therein mentioned to any person, firm or corporation;
- (j) Ordinances authorizing the issuance of bonds and other instruments of indebtedness by the city;
- (k) Ordinances authorizing contracts;
- (l) Ordinances establishing the limits of the city or pertaining to annexation or exclusion of territory;
- (m) Ordinances relating to compensation of officials, officers and employees of the city;
- (n) Ordinances of a temporary nature;

Provided, That the above enumeration of exceptions shall not be held or deemed to be exclusive, it being the purpose and intention to exempt from repeal any and all ordinances not of a general nature and general ordinances specifically excepted by this section.

Section 4. The arrangement and classification of the several chapters, articles, and sections of the code adopted by Section 1 of this ordinance and the head notes and footnotes at the ends of the sections, are made for the purpose of convenience and orderly arrangement, and do not constitute a part of the ordinances, and therefore, no implication or presumption of legislative intent or construction is to be drawn therefrom.

Section 5. The repeal of ordinances as provided in Section 2 hereof, shall not affect any rights acquired, fines, penalties, forfeitures or liabilities incurred thereunder, or actions involving any of the provisions of said ordinances or parts thereof. Said ordinances above repealed are hereby continued in force and effect after the passage, approval and publication of this ordinance for the purpose of such rights, fines, penalties, forfeitures, liabilities and actions therefor.

Section 6. If for any reason any chapter, article, section, subsection, sentence, portion or part of the "Code of the City of Ellis, Kansas, 2009," or the application thereof to any person or circumstances is declared to be unconstitutional or invalid, such decision will not affect the validity of the remaining portions of this code.

Section 7. This ordinance shall take effect and be in force from and after the 21st day of September, 2009, and following the publication of the "Code of the City of Ellis, Kansas, 2009," as provided in K.S.A. 12-3015.

Passed by the Governing Body of the City of Ellis, Kansas, this 21st day of September, 2009.

David R. McDaniel, Mayor

ATTEST:

Mary Jo Walz, City Clerk

(SEAL)

CERTIFICATE OF THE CITY CLERK

Office of the City Clerk
City of Ellis, Kansas

State of Kansas)
)
Ellis County)

I, Mary Jo Walz, City Clerk of the City of Ellis, Ellis County, Kansas do hereby certify that said city is a city of the second class of the mayor-council form of government under the statutes of Kansas; that this codification of the general ordinances of said city and the publication thereof in book form were ordered and authorized by the governing body by Ordinance No. 1039 and in accordance therewith is entitled the "Code of the City of Ellis, Kansas, 2009," that said codification was adopted as the "Code of the City of Ellis, Kansas, 2009," by the governing body by Ordinance No. 1299 passed on the 21st day of September, 2009, as authorized by Section 12-3015 of the Kansas Statutes Annotated; that said Ordinance No. 1299 and said codification of general ordinances as contained in this volume will take effect upon publication of 10 or more copies; that the publication of 10 copies of this code and adoptive Ordinance No. 1299 constitute due passage of this code and all general ordinances contained therein; that the codification and adoptive Ordinance No. 1299 as contained herein are true and correct copies; and that said publication imports absolute verity and is to be received in evidence in all courts and places without further proof as provided by 12-3015 of the Kansas Statutes Annotated.

I further certify that the "Code of the City of Ellis, Kansas, 2009," and the matter therein contained will take effect upon publication and be in force from and after September 21st, 2009.

Witness my hand and the seal of the City of Ellis, Kansas, at my office in Ellis, Kansas, this 21st day of September, 2009.

Mary Jo Walz, City Clerk
City of Ellis, Kansas

(S E A L)

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ARTICLE 1. GENERAL PROVISIONS

- 1-101. CODE DESIGNATED. The chapters, articles and sections herein shall constitute and be designated as "The Code of the City of Ellis, Kansas," and may be so cited. The Code may also be cited as the "Ellis City Code." (Code 1990)
- 1-102. DEFINITIONS. In the construction of this code and of all ordinances of the city, the following definitions and rules shall be observed, unless such construction would be inconsistent with the manifest intent of the governing body or the context clearly requires otherwise:
- (a) City - shall mean the City of Ellis, Kansas.
 - (b) Code - shall mean "The Code of the City of Ellis, Kansas."
 - (c) 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.
 - (d) County - means the County of Ellis in the State of Kansas.
 - (e) 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.
 - (f) Gender - Words importing the masculine gender include the feminine and neuter.
 - (g) Governing Body - shall be construed to mean the mayor and city council of the city, or those persons appointed to fill a vacancy in the office of mayor or the city council as provided in this code.
 - (h) In the city - shall mean and include all territory over which the city now has, or shall hereafter acquire jurisdiction for the exercise of its police powers or other regulatory powers.
 - (i) 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.
 - (j) Month - shall mean a calendar month.

(k) Number - Words used in the singular include the plural and words used in the plural include the singular.

(l) 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."

(m) Officers, departments, etc. - 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.

(n) 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.

(o) Person - includes a firm, partnership, association of persons, corporation, organization or any other group acting as a unit, as well as an individual.

(p) Property - includes real, personal and mixed property.

(q) Real Property - includes lands, tenements and hereditaments, and all rights thereto and interest therein, equitable as well as legal.

(r) Shall, may - "Shall" is mandatory and "may" is permissive.

(s) Sidewalk - means any portion of a street between the curb line and the adjacent property line intended for the use of pedestrians.

(t) 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.

(u) State - shall be construed to mean the State of Kansas.

(v) Street - means and includes public streets, avenues, boulevards, highways, roads, alleys, lanes, viaducts, bridges and the approaches thereto and all other public thoroughfares in the city.

(w) 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.

(x) Tenses - Words used in the past or present tense include the future as well as the past and present.

(y) 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.

(z) Year - means a calendar year, except where otherwise provided.

(Code 1990)

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. (Code 1990)

1-104. EFFECT OF REPEAL. The repeal of an ordinance shall not revive an ordinance previously repealed, nor shall such repeal affect any right which 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. (Code 1990)

- 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. (Code 1990)
- 1-106. PARENTHETICAL AND REFERENCE MATTER. The matter in parenthesis at the ends of sections is for information only 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 for information only and is not a part of this code. (Code 1990)
- 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 Ellis 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 Ellis 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 Ellis is hereby repealed." (Code 1990)
- 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; Code 1990)
- 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. (K.S.A. 12-3004; Code 1990)
- 1-110. SAME; PUBLICATION. 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. (K.S.A. 12-3007; Code 1990)
- 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; Code 1990)

- 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 of a quorum of the city council. (Code 1990)
- 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. (K.S.A. 12-120:121; Code 1990)
- 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 of Ellis 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.
(Code 1990)
- 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 section 1-116. Each day any violation of this code continues shall constitute a separate offense. (Code 1990)
- 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; or,
(b) Imprisonment in jail for not more than 179 days; or,
(c) Both such fine and imprisonment not to exceed (a) and (b) above.
(Code 1990)
- 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.
(Code 1990)
- 1-118. ADMINISTRATIVE FEES FOR OUTSIDE COLLECTION. (a) All bills which are determined to be a bad debts incurred for services unrelated to the Municipal Court of the City of Ellis, Kansas which are turned over for outside collection, including the State of Kansas setoff program, shall be subject to a fee of twenty-

five percent (25%) of the total of the delinquent amount. This bad debt administrative charge shall be applied prior to referral for collection.

(b) All bills which are determined to be a bad debts incurred from fines, citations and warrants issued by the Municipal Court of the City of Ellis, Kansas which are turned over for outside collection, including the State of Kansas setoff program, shall be subject to a fee of thirty percent (30%) of the total of the delinquent amount. This bad debt administrative charge shall be applied prior to referral for collection. (Ord. 1298; Code 2009)

ARTICLE 2. GOVERNING BODY

- 1-201. **GOVERNING BODY.** The governing body shall consist of a mayor and six councilmembers to be elected as set out in Chapter 6 of this code. (Code 1990)
- 1-202. **POWERS GENERALLY.** All powers exercised by cities of the second 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 city council as governing body of the city. (K.S.A. 12-103; Code 1990)
- 1-203. **SAME; MEETINGS.** (a) Regular meetings of the governing body shall be held on the first and third Mondays of each month at 7:30 p.m. In the event that the regular meeting shall fall on any legal holiday or any day observed as a holiday by the city offices, the governing body shall fix the following business day not observed as a legal holiday as a meeting day.
 (b) Special meetings may be called by the mayor or acting mayor, on the written request of any three members of the council, specifying the object and purpose of such meeting, which request shall be read at a meeting and entered at length on the journal.
 (c) Regular or special meetings of the governing body may be adjourned for the completion of its business at such subsequent time and place as the governing body shall determine in its motion to adjourn.
(K.S.A. 14-111; Code 1968, 1-101:102; Code 1990; Ord. 1098, Sec. 1; Ord. 1123, Sec. 1)
- 1-204. **COMPELLED ATTENDANCE.** (a) A majority of the councilmembers-elect shall constitute a quorum to do business, but any less number may adjourn from day to day in the event that a quorum is not present to conduct a meeting. The mayor of the city and all members of the city council of the city are hereby required to attend all meetings of the city council of the city including all special and regular meetings of the city council of the city, except when the attendance of the mayor or a member of the city council is excused for the following reasons:
 (1) When the mayor or a council member is sick and unable to attend;
 (2) When a member of the immediate family of the mayor or a city council member is sick thus causing the inability of the mayor or the city council member to attend;
 (3) When a death has occurred in the family of the mayor or a city council member;
 (4) Any other excused absence which is approved by the governing body of the city.
 (b) Except for the excused absences set out above the mayor and all city councilmembers shall attend all meetings of the city council of the city and if the mayor or any council member is absent for three regular consecutive meetings such mayor or council member shall be deemed to have vacated his or her office and the vacancy shall be filled as provided for in section 1-208. (Code 1968, 1-103)

- 1-205. **POWERS OF THE MAYOR.** 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. The mayor shall:
- (a) Have the superintending control of all officers and affairs of the city;
 - (b) Take care that the ordinances of the city are complied with;
 - (c) Sign the commissions and appointments of all officers elected or appointed;
 - (d) Endorse the approval of the governing body on all official bonds;
 - (e) From time to time communicate to the city council such information and recommend such measures as he or she may deem advisable;
 - (f) Have the power to approve or veto any ordinance as the laws of the state shall prescribe;
 - (g) Sign all orders and drafts drawn upon the city treasury for money.
- (K.S.A. 14-301 et seq.; Code 1990)
- 1-206. **PRESIDENT OF THE COUNCIL; VACANCY IN OFFICE OF MAYOR.** The mayor shall appoint, from the council, and with the consent of a majority of the council, a president of the council. The president of the council shall preside in the absence of the mayor, if a vacancy occurs in the office of mayor by death, resignation, removal from the city, or removal from office, refusal to qualify, or otherwise, the president of the council shall become mayor and shall serve in such capacity for the remainder of the unexpired term of the mayor who is leaving office. The vacancy created in the office of the council member becoming mayor shall be filled by appointment of the mayor for the unexpired term of that council position, such appointment to be made with the consent of a majority of the council.
- (Code 1968, 1-203)
- 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. (Code 1990)
- 1-208. **VACANCIES IN CITY COUNCIL; HOW FILLED.** Any vacancy occurring on the council of the city shall be filled by appointment by the mayor, with the consent of the majority of the remaining members of the city council. The appointment shall be for the unexpired term of the office. (C.O. No. 12, Sec. 3; Code 1990)
- 1-209. **COMPENSATION.** Members of the governing body shall receive as compensation such amounts as may be fixed by ordinance. (Code 1990)
- 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 of Kansas for state employees for each mile traveled by the shortest route upon the performance of duties assigned by the mayor and/or council.

(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. (Code 1990)

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 of the City of Ellis, Kansas, that certain code known as the "Code of Procedure for Kansas Cities," Edition of 2004, 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 Code of Procedure for Kansas Cities shall be marked or stamped "Official Copy as Incorporated by the Code of the City of Ellis, 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. (Code 2005)

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 - 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.

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

(d) Fair and Equal Treatment - (1) Interest in Appointments. Canvassing of members of the city council, directly or indirectly, in order to obtain preferential consideration in connection with any appointment to the municipal service shall disqualify the candidate for appointment except with reference to positions filled

by appointment by the city council.

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

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

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

Specific conflicts of interest are enumerated below for the guidance of officials and employees:

(1) Incompatible Employment - No elected or appointive city official or employee shall engage in or accept private employment or render services for private interests when such employment or service is incompatible with the proper discharge of his or her official duties or would tend to impair his or her independence of judgment or action in the performance of his or her official duties.

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

(3) Gifts and Favors. 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 (a) 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 (b) 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: (a) an occasional nonpecuniary gift, of only nominal value or (b) an award publicly presented in recognition of public service or (c) 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.

(Code 1990)

ARTICLE 3. OFFICERS AND EMPLOYEES

- 1-301. APPOINTIVE OFFICERS; DESIGNATED, DUTIES, TERMS. (a) The mayor shall appoint, by and with the consent of the council, a municipal judge, a city marshal who shall be called the chief of police, city clerk, city attorney, and may appoint an assistant marshal, street commissioner, and such policemen and other officers as they may deem necessary. Officers so appointed and confirmed shall hold their offices for a term of one year, and until their successors are appointed and qualified, except the term of office of the municipal judge shall be for a term of two years, which term shall commence on the first Tuesday in April of each even-numbered year.
- (b) The council shall by ordinance specify their duties and compensation, and by ordinance may abolish any office created by them, whenever they deem it expedient.
- (c) The council may retain a licensed professional engineer to act in the capacity of city engineer, for specifically defined duties, and provide for reasonable compensation for the services rendered. (C.O. No. 9, Sec. 3; Code 1990)
- 1-302. EMPLOYEES. The mayor with consent of the council shall have authority to hire all other employees, or such authority may be delegated to the respective department heads. (Code 1990)
- 1-303. REMOVAL. (a) A majority of all members elect of the governing body may remove any appointed officer.
- (b) For good cause, 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. (Code 1990)
- 1-304. VACANCY IN OFFICE. Whenever a vacancy occurs in any appointive office for whatever reason, the vacancy shall be filled by the mayor with the consent of the council. Any person appointed to fill such vacancy shall serve only until the next regular time for appointment. (Code 1990)
- 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;
- (f) Publish all ordinances, except those appropriating money, and such resolutions, notices and proclamations as may be required by law or ordinance. (Code 1968, 1-302:313; Code 1990)

- 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;
 - (e) Keep a record of all special assessments. (Code 1968, 1-302:313; Code 1990)
- 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;
 - (c) Keep suitable files of all such oaths required to be deposited in his or her office. (Code 1968, 1-302:313; Code 1990)
- 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 Kansas statutes. (Code 1968, 1-316; Code 1990)
- 1-309. CITY TREASURER. (a) The city treasurer shall:
- (1) Keep a full and accurate record of all money received and paid out in a ledger book provided by the governing body;
 - (2) Publish a quarterly financial statement;
 - (3) Deposit all public moneys and sign all checks of the city;
 - (4) Pay out city funds only upon orders or warrants properly signed by the mayor and city clerk;
 - (5) Perform such other duties as may be prescribed by the governing body or the Kansas statutes.
- (b) Not less than five nor more than forty-five days after the vacancy of the office of City Treasurer occurs, the governing body shall appoint an elector to fill the vacancy for the balance of the unexpired term.
(K.S.A. 10-803; K.S.A. 12-1608; Code 1968, 1-317:320; Code 1990; Ord. 1271; Code 2009)
- 1-310. CITY ATTORNEY; OFFICE; DUTIES. There is hereby established the office of city attorney. No person shall be eligible for the office of city attorney who is not an attorney at law admitted to practice in the Supreme Court of the State of Kansas. The city attorney shall be charged with the general direction and supervision of the legal affairs of the city. The city attorney shall:

- (a) Attend meetings of the governing body when so directed to attend by the governing body;
- (b) Advise the governing body and all officers of the city upon such legal questions affecting the city and its offices as may be submitted to him or her;
- (c) When requested by the governing body, give opinions in writing upon any such questions;
- (d) Draft such ordinances, contracts, leases, easements, conveyances and other instruments in writing as may be submitted to him or her in the regular transaction of affairs of the city;
- (e) Approve all ordinances of the city as to form and legality;
- (f) Attend planning commission and board of zoning appeals meetings when so directed by the boards;
- (g) Appear and prosecute all violations of city ordinances in municipal court when his or her services shall be required;
- (h) Perform such other duties as may be prescribed by the governing body and the Kansas statutes. (Code 1990)

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. (Code 1990)

1-312. CONFLICT OF INTEREST. (a) No city officer or employee shall be signatory upon, discuss in an official capacity, vote on any issue concerning or otherwise participate in his or her capacity as a public official or employee in the making of any contract with any person or business:

- (1) In which the officer or employee owns a legal or equitable interest exceeding \$5,000 or five percent, whichever is less, individually or collectively with his or her spouse; or
- (2) From which the officer or employee receives, in the current or immediately preceding or succeeding calendar year, any salary, gratuity, other compensation or a contract for or promise or expectation of any such salary, gratuity or other compensation or remuneration having a dollar value of \$1,000 or more; or
- (3) In which he or she shall hold the position of officer or director, irrespective of the amount of compensation received from or ownership held in the business.

(b) The prohibitions contained in subsection (a) of this section shall not apply to the following:

- (1) Contracts let after competitive bidding has been solicited by published notice; and
- (2) Contracts for property or services for which the price or rate is fixed by law. (K.S.A. 75-4301; Code 1990)

ARTICLE 4. PERSONNEL POLICY AND EMPLOYEE BENEFITS

- 1-401. PERSONNEL RULES AND REGULATIONS. There is hereby incorporated by reference for the purpose of establishing employee personnel rules and regulations the document entitled "Uniform Personnel Rules and Regulations for the City of Ellis." No fewer than three copies of said document shall be marked or stamped "Official Copy as adopted by the Code of the City of Ellis" and which there shall be attached a copy of this section. Said official copies 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. (Code 1990)
- 1-402. EMPLOYER AND EMPLOYEE RELATIONS. The city hereby elects to come under the provisions of K.S.A. 75-4321 to 75-4335 known as the employer-employee relations act, inclusive, reserving, however, unto the governing body of the city all of its rights to adopt by subsequent ordinance or resolution certain alternative provisions and procedures as provided by the statutes and in particular, K.S.A. 75-4335. (Code 1968, 1-508)

ARTICLE 5. OATHS AND BONDS

1-501. OATH; AFFIRMATION. All officers and employees of the city, whether elected or appointed, either under the laws of the State of Kansas or ordinances of the city, shall before entering upon the duties of their respective offices, take and subscribe an oath or affirmation as follows:

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."

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. 75-4308, 54-104, 54-106; Code 2006)

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. (Code 1968, 1-503; Code 1990)

1-503. BONDS REQUIRED. (a) The following city officers shall each, before entering upon the duties of his or her office, give a good and sufficient corporate surety bond to the city. The bond shall be in the following amount, to wit:

- (1) City treasurer - \$20,000;
- (2) City clerk - \$10,000;
- (3) Judge of municipal court - \$500.

(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.

(c) All other officers shall give bonds in such sums as now are, or may hereafter be prescribed by the laws of the State of Kansas, or by ordinances of this city; provided, that the custodian of the cemetery endowment fund is hereby designated to be the city clerk and that as such custodian of the cemetery endowment fund the city clerk shall not be required to give additional bond over and above that required pursuant to this section. (Code 1968, 1-504:505; Code 1990)

1-504. SAME; PREMIUMS. All premiums on surety bonds shall be paid by the city. (K.S.A. 78-111; Code 1990)

1-505. CONDITION OF BONDS. Each of the bonds required in section 1-503 of this article shall be conditioned for the faithful performance of duty and all acts required by the laws of Kansas and of the city, and for the application and payment over to the proper persons of all moneys or property coming into the

hands of each such officer by virtue of his or her office. (Code 1968, 1-506; Code 1990)

- 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 of Kansas.
(Code 1968, 1-507; Code 1990)

ARTICLE 6. OPEN RECORDS

- 1-601. POLICY. (a) It is hereby declared to be the policy of the city that all public records which are made, maintained or kept by or are in the possession of the city, its officers and employees, shall be open for public inspection as provided by, and subject to the restrictions imposed by, the Kansas Open Records Act.
- (b) Any person, upon request, shall have access to such open public records for the purpose of inspecting, abstracting or copying such records while they are in the possession, custody and control of the appointed or designated record custodian thereof, or his or her designated representative.
(Code 1968, 1-901; Code 1990)
- 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; insure 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 Kansas Open Records Act. 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. (Code 2002)
- 1-603. LOCAL FREEDOM OF INFORMATION OFFICERS. The Local Freedom of Information Officer shall:
- (a) Prepare and provide educational materials and information concerning the Kansas Open Records Act;
- (b) be available to assist the city and members of the general public to resolve disputes relating the Kansas Open Records Act;
- (c) respond to inquiries relating to the Kansas Open Records Act;
- (d) establish the requirements for the content, size, shape and other physical characteristics of a brochure required to be displayed or distributed or otherwise made available to the public under the Kansas Open Records Act. In establishing such requirements for the content of the brochure, the Local Freedom of Information Officer shall include plainly written basic information about the rights of a requester, the responsibilities of the city, and the procedures for inspecting and obtaining a copy of public records under the Act. (Code 2002)
- 1-604. PUBLIC REQUEST FOR ACCESS. All city offices keeping and maintaining open public records shall establish office hours during which any person may make a request for access to an open public record. Such hours shall be no fewer than the hours each business day the office is regularly open to the public.

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. (Code 2002)

- 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. (Code 2002)
- 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. (Code 2002)
- 1-607. APPOINTMENT OF OFFICIAL CUSTODIANS. The following city officers are hereby appointed as official custodians for purposes of the Kansas Open Records Act and are hereby charged with responsibility for compliance with that Act with respect to the hereinafter listed public records:
- (a) City Clerk - All public records kept and maintained in the city clerk's office and all other public records not provided for elsewhere in this section.
 - (b) City Treasurer - All public records not on file in the office of the city clerk and kept and maintained in the city treasurer's office.
 - (c) Chief of Police - All public records not on file in the office of the city clerk and kept and maintained in the city police department.
 - (d) Fire Chief - All public records not on file in the office of the city clerk and kept and maintained in the city fire department.
 - (e) City Attorney - All public records not on file in the office of the city clerk and kept and maintained in the city attorney's office.
 - (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.
- (Code 2002)
- 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 section 1-603. (Code 2002)
- 1-609. DESIGNATION OF ADDITIONAL RECORD CUSTODIANS. (a) Each of the official custodians appointed in section 1-606 is hereby authorized to designate any subordinate officers or employees to serve as record custodian. Such record custodians shall have such duties and powers as are set out in the Kansas Open Records Act.

(b) Whenever an official custodian shall appoint another person as a record custodian he or she shall notify the city clerk of such designation and the city clerk shall maintain a register of all such designations. (Code 2002)

1-610. REQUESTS TO BE DIRECTED TO CUSTODIANS. (a) All members of the public, in seeking access to, or copies of, a public record in accordance with the provisions of the Kansas Open Records Act, shall address their requests to the custodian charged with responsibility for the maintenance of the record sought to be inspected or copied.

(b) Whenever any city officer or employee appointed or designated as a custodian under this article is presented with a request for access to, or copy of, a public record which record the custodian does not have in his or her possession and for which he or she has not been given responsibility to keep and maintain, the custodian shall so advise the person requesting the record. Further, the person making the request shall be informed as to which custodian the request should be addressed to, if such is known by the custodian receiving the request. (Code 2002)

1-611. FEE ADMINISTRATION. The city clerk is hereby authorized to provide the clerk's office, and the office of each record custodian, with sufficient cash to enable the making of change for record fee purposes. Each custodian shall transmit all record fee moneys collected to the city clerk whenever the amount accumulated exceeds \$5.00 but not less than monthly. Each custodian shall maintain duplicates of all records and copy request forms, completed as to the amount of fee charged and collected, which amounts shall be periodically audited by the clerk-finance officer and treasurer of the city. (Code 2002)

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 subsection (a) of this section, a record inspection fee shall be charged at the rate of \$15.00 per hour per employee engaged in the record search. A minimum charge of \$5.00 shall be charged for each such request. (Code 2002)

1-613. COPYING FEE. (a) A fee of \$.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.

(c) The copy fee for an accident report shall be set by resolution. (Code 2005)

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 \$25.00.

(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. (Code 2002)

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. (Code 2002)

1-616. INSPECTION AND COPYING POLICY AND PROCEDURES. (a) Generally. The following procedures are hereby adopted and shall be applied by each official custodian and record custodian:

(1) Consistent with the policy, duties and procedures established by the State of Kansas all city record custodians shall provide full access and assistance in a timely and efficient manner to persons who request access to open public records.

(2) Record custodians shall adopt and apply open public record access and copy procedures consistent with the policies of the city and with the provisions of the open records act. Specifically, such procedures will inform members of the public of the procedures to be followed in making a request for inspection or a copy of an open public record, including the hours during which record inspection or copy requests may be made, who a request is to be made to, the forms to be completed in making a request, and the schedule of fees charged.

(3) Record custodians shall adopt and apply procedures which will ensure the protection and preservation of public records with respect to the manner in which such records are inspected and copied.

(4) Record custodians shall take necessary measures, not inconsistent with their duties, to provide full public access to open public records, to ensure that the essential functions of the custodian's office, department or agency is not disrupted by requests for record inspection and copying.

(5) All inspections and copying of open public records shall be performed by, or under the supervision of, the record custodian responsible for such records.

(6) All persons requesting the inspection of or a copy of open public records shall make such request in writing prior to the request being honored, except that no form shall be required for requests made for records which have been reproduced for free public distribution.

(7) All record inspection and copying forms are to be completed by the person requesting the record. The record custodian may demand reasonable identification of any person requesting a record.

(8) Any fees for record inspection or for copies are due at the time the records, or copies thereof, are provided to the requested, unless the record custodian has demanded that prepayment of all or part of such fees be made. Fees are to be paid to the record custodian.

(9) The record custodian shall notify the record requester, prior to

commencing search of the record or copies thereof, of his or her estimate of the fee which will be made for honoring the request whenever such estimate exceeds \$25.00.

(10) The record custodian shall demand full or partial prepayment of fees whenever his or her estimate for such fees exceeds \$25.00. Prepayment may or may not be required of a requester who maintains an account in good standing with the city for purposes of payment of record fees.

(11) The record custodian shall determine and assess a charge covering mailing and handling costs accrued in responding to requests through the mail service.

(12) The record custodian may exercise his or her discretion to reduce or waive any inspection or copying fees when such is in the public interest.

(13) No record inspection or copying charge shall be assessed against officers or employees of the city who makes requests which are reasonably necessary to the performance of their official duties.

(14) Hours for making requests for inspection or copying shall be all regular working hours for each day the office maintains regular office hours. If an office keeping or maintaining public records does not have regular office hours Monday through Friday, the official custodian for such office shall establish hours for each such day when no regular office hours are kept, at which time members of the public may make requests for record inspection or copies of records.

(15) Removal of open public records from the office where kept and maintained for purposes of inspection and/or the making of copies shall be permitted only with the written permission of the record custodian. It shall be unlawful for any person to fail to return such records at the time and place where such return has been promised. Upon conviction for violation of this subsection a person may be fined up to \$100.00 or sentenced to 10 days in the city jail, or be both so fined and imprisoned.

(16) The above procedures, as well as any other inspection and copying procedures shall be posted in a conspicuous place in the office of the record custodian.

(b) Inspection. The following procedures are hereby adopted and shall be applied by every official custodian and record custodian:

(1) Record custodians shall handle all inspection requests in accordance with their duties to protect and preserve public records and to assist persons requesting inspection of open public records.

(2) All request forms must be completed by the party requesting the record. In all cases the party so requesting must be an individual person or persons. Written requests shall be made on the form provided by the record custodian and presented to the record custodian.

(3) A written request is sufficient if it reasonably describes the record sought. In instances where the requester cannot provide sufficient information to identify a record, the custodian shall assist in making such identification.

(4) In cases where a request for a specific record gives the record custodian reason to believe that the record contains information of a personal nature which if disclosed would constitute an unwarranted invasion of personal privacy, the record custodian shall inform the requester that a 72 hour waiting period must run before such record may be inspected. During that 72 hour

period, the record custodian shall make every reasonable effort to determine the identity of those persons whose privacy interest may be so affected by disclosure. The record custodian shall attempt to contact such persons whose privacy interest may be so affected by disclosure. The record custodian shall attempt to contact such persons and ascertain whether they or any of them will seek a court order challenging disclosure. If so, the record custodian shall deny inspection pending the outcome of litigation or an intervening court order.

(5) No inspection fee shall be charged the requester if the actual cost of locating the records pursuant to one request is less than \$1.00 or, in the case of multiple requests brought by the same person or on behalf of the same person, where the actual cost of locating the records pursuant to requests made over a 24 hour period is less than \$1.00.

(6) No inspection fee will be assessed when a denial of a request is made. The record custodian shall, upon making a denial of an inspection request, forward a copy of the denial to the city attorney.

(c) Copying. The following procedures are hereby adopted and shall be applied by each official custodian and record custodian:

(1) Record custodians shall handle all copy requests in accordance with their duties to protect and preserve public records and to assist persons requesting copies of open public records.

(2) All request forms must be completed by the party requesting the copies. In all cases the party so requesting must be an individual person or persons. Written requests shall be made on the form provided by the record custodian.

(3) Mechanical reproduction of a record shall not be undertaken when it is the judgment of the record custodian that any available means of mechanically reproducing the subject record is likely to cause damage to such record.

(4) No copy fee shall be assessed when multiple copies of the record requested have been prepared for free public distribution, or when the record custodian determines that the cost of charging and handling the fee extends the cost of providing a copy without charge.

(5) No copying fee will be assessed when a denial of a request is made. The record custodian shall, upon making a denial of a copying request, forward a copy of the denial to the city attorney. (Code 1968, 1-903)

ARTICLE 7. INVESTMENT OF IDLE FUNDS

1-701. **PURPOSE AND GOALS.** It is the purpose of this statement to set forth the public policies of the city relating to the investment of public moneys, and establish procedural requirements as to investment management practice. The objective of the investment policy and program of the city shall be as follows:

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

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

(Code 1996)

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 Ellis 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 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 Ellis 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 subsections (a) or (b) 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 which 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 subsection (a) and the city can obtain satisfactory security therefor. (Code 2007)

1-703. DEFINITIONS. As used in this article the following words and phrases shall mean:

(a) Bank - means any bank incorporated under the laws of the state of Kansas or any other state, or organized under the laws of the United States and which has a main or branch office in Kansas;

(b) Savings and loan association - means any savings and loan association incorporated under the laws of the state of Kansas or any other state, or organized under the laws of the United States and which has a main or branch office in Kansas;

(c) Savings bank - means any savings bank organized under the laws of the United States and which has a main or branch office in Kansas;

(d) Main office - means 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;

(e) Branch - means any office within this state, other than the main office, that is approved as a branch 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;

(f) Investment rate - means 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 0-90 day rate shall be computed on the average effective federal funds rate as published by the Federal Reserve System for the previous week. (Code 2007)

1-704. INVESTMENT OF IDLE FUNDS. Temporarily idle moneys of the city not currently needed, may in accordance with the procedure hereinafter described be invested:

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

(b) In 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; or

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

(B) If no such bank, savings and loan association or savings bank having a main or branch office located in the city is willing to enter into such an agreement with the city at an interest rate equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto, then such

repurchase agreements may be entered into with banks, savings and loan associations or savings banks which have main or branch offices in the county or counties in which all or part of the city is located; 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 subsection (g) of K.S.A. 12-1675a, and amendments thereto, then such repurchase agreements may be entered into with banks, savings and loan associations or savings banks located within the State of Kansas;

(d) In United States treasury bills or notes 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 section 15 or 15C of the securities exchange act of 1934 and registered pursuant to K.S.A. 2005 Supp. 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; or

(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 of Ellis is located. Public moneys invested under this paragraph shall be secured in the same manner as provided for under K.S.A. 9-1402 and amendments thereto. Pooled investments of public moneys made by trust departments under this paragraph 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 subsections (d), (e), (f) or (g) of this section shall be utilized only if the banks, savings and loan associations and savings banks eligible for investments authorized in subsection (b), cannot or will not make the investments authorized in subsection (b) available to the city at interest rates equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto.

(i) In selecting a depository pursuant to subsection (b), if a bank, savings and loan association or savings bank eligible for an investment deposit there under 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 subsection (g) of K.S.A. 12-1675a, and amendments thereto, and such financial institution otherwise qualifies for such deposit, the governing body shall select one or more of such eligible financial institutions for deposit of funds pursuant to this section. If no such financial

institution qualifies for such deposits, the city shall select for such deposits one or more eligible banks, savings and loan associations or savings banks which have offices in the county or counties in which all or a part of the city is located which will make such deposits available to the city at interest rates equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto, and which otherwise qualify for such deposits. (Code 2007)

- 1-705. PROCEDURES AND RESTRICTIONS. The city clerk shall periodically report to the governing body as to the amount of money available for investment and the period of time such amounts will be available for investment, and shall submit such recommendations as deemed necessary for the efficient and safe management of city finances. The recommendations of the city clerk shall provide for an investment program which shall so limit the amounts invested and shall schedule the maturities of investments so that the city will, at all times, have sufficient moneys available on demand deposit to assure prompt payment of all city obligations. (Code 2007)
- 1-706. CUSTODY AND SAFEKEEPING. Securities purchased pursuant to this article shall be under the care of the city clerk, city treasurer and mayor 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. (Code 2007)
- 1-707. SALE OR TRANSFER. If, in order to maintain sufficient moneys on demand deposit in any fund as provided in 1-705, it becomes necessary to transfer or sell any securities of such funds, the officers specified in Section 6 may transfer said securities to any other fund or funds in which there are temporarily idle moneys, or shall sell such securities, and for such purpose they shall have authority to make any necessary written direction, endorsement or assignment for and on behalf of the city. (Code 2007)
- 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. (Code 2007)

ARTICLE 8. INVESTMENT OF REVENUES FROM ESTABLISHED FUNDS

- 1-801. UTILITY REVENUES; USE, DISTRIBUTION, INVESTMENT. The revenue derived by the city from the sale and consumption of water shall not be paid out or disbursed except for the purpose of operating, renewing or extending the plant or distribution system from which such revenue was derived, the payment of interest on outstanding bonds issued for the construction, extension or purchase thereof, and the payment of the salaries of the employees; and at anytime that there may be a surplus of such fund, it shall, if needed to redeem bonds, be quarterly placed in a sinking fund, which shall only be used for the purpose of redeeming bonds that may have been issued for acquiring, renewing or extending the plant or distribution system or making renewals or extensions thereto; provided that when any surplus of either the operating fund or sinking fund is not needed for any of the above stated purposes, the surpluses in whole or in part:
- (a) May be transferred and merged into the city general revenue fund or any other fund or funds of such city;
 - (b) May be expended for the purpose of promoting industrial development within or without the corporate limits of the city including encouraging and assisting the location of new business and industry and expansion of existing development for the purpose of promoting the sale, use and consumption of water furnished from the waterworks plant or distribution system of the city, the economic and general welfare and prosperity of the city; provided, that no such expenditure shall be made for purposes of industrial promotion until a finding has been made by the governing body of the city by resolution duly adopted that the purpose for which the expenditure is made is in the public interest and will promote industrial and utility development to the advantage of the city. Provided further, that when at anytime moneys are realized from the lease, purchase or sale of any building or building facility or any other project, the cost or any portion of which was paid from a utility fund for the purpose of promoting industrial development as above provided, such moneys or any portion thereof shall be placed in the utility fund from which such expenditure was made;
 - (c) May be expended for the purpose of advertising and promotion of the sale of water. (C.O. No. 5, Secs. 3:4; Code 1990)
- 1-802. FIRE EQUIPMENT FUNDS; INVESTMENT. The governing body is authorized to invest any portion of such fire equipment fund which is not currently needed in any of the following:
- (a) Direct obligations of the United States government which are guaranteed as to principal by the United States Government;
 - (b) Temporary notes of the city issued pursuant to K.S.A. 10-123; or
 - (c) No-fund warrants of the city. (C.O. No. 3, Secs. 1:2)
- 1-803. MUNICIPAL EQUIPMENT RESERVE FUND, CREATED; INVESTED.
- (a) Fund Established. There is hereby established a municipal reserve fund, which shall be used by the city to finance the acquisition of equipment necessary for the performance of various functions and services of the city. For the purpose of this section the word equipment shall mean machinery, vehicles and other equipment or personal property which has an estimated future

purchase or replacement cost in excess of \$500.00 and a life expectancy of not less than three years.

(b) Policy Objective. It is the policy objective of the governing body that such equipment reserve fund shall be used as a financing mechanism to secure the planning and orderly acquisition and replacement of equipment necessary for the efficient and effective operation of the city. It is the further intent of the governing body to annually approve in the future the budgeting of current revenues sufficient (1) to finance the acquisition of new equipment needed in the following year, and (2) to finance needed future replacements and acquisitions by setting aside a reserve amount. It is the planned intent of the governing body that the amount annually reserved shall be not less than the current use value of existing city equipment covered by the reserve fund.

(c) Plan for Operations.

(1) The city clerk shall prepare a plan of operation for the implementation of this article and for the achievement of the policy objectives of the governing body.

(2) In the year 1986, the city clerk shall include in the proposed budget for 1987 an amount sufficient to cover necessary 1987 equipment acquisition costs, plus an amount approximately equal to the average annual expenditures of the city for equipment purchases during the past five years.

(3) Beginning in 1987, the city clerk shall annually submit, at the same time the proposed annual budget is submitted, a proposed equipment acquisition program for each of the following three years. The proposed budget shall include an amount sufficient to finance proposed equipment acquisitions for the following year, plus an amount to be reserved as set forth in the annually revised and extended equipment acquisition program.

(d) Investing. Moneys in the equipment reserve fund shall be invested in accordance with the provisions of K.S.A. 10-131 and amendments thereto, with interest thereon credited to such fund. (Code 1968, 1-413)

1-804.

CAPITAL IMPROVEMENTS FUND; CREATED; INVESTED. (a) Fund Established. There is hereby established a capital improvements fund, which shall be used by the city to finance, in whole or in part, any public improvement need set forth in the city's capital improvement plan.

(b) Policy Objective. It is the policy objective of the governing body that such fund shall be used primarily to provide a financing mechanism for the repair, restoration and rehabilitation of existing public facilities. Further, it is the intent of the governing body to utilize current revenues to be credited to the fund, to the maximum extent possible to meet the city's present and future public infrastructure needs and to avoid the costs of unnecessary indebtedness.

(c) Use for Studies. Moneys in such fund may be used to pay the cost of engineering and other advanced public improvement plans and studies, with the fund periodically reimbursed from bond proceeds, special assessments or state or federal aid that may be available for the completed project. No expenditures for such purposes shall be made except on a finding of the governing body of its probable intent to proceed with the improvement following such engineering or advanced study.

(d) Plan of Operation.

(1) The city clerk shall submit to the governing body a plan of operation for the implementation of this section. Such plan shall provide that the annual, revised and adopted capital improvements plan of the city identify those improvements to be financed from the fund during the following year.

(2) Beginning in 1987, the city clerk shall annually submit, at the same time and as a part of the annual operating budget, such proposed revenue allocations and budget transfers as may be necessary (a) to finance those improvements scheduled for completion next year, the cost of which is to be credited to the fund, as provided by the capital improvements plan, and (b) to set aside moneys to be annually reserved for future improvements, as provided in the capital improvements plan.

(e) Investing. Moneys in the capital improvements fund shall be invested in accordance with the provisions of K.S.A. 10-131 and amendments thereto, with interest thereon credited to such fund. (Code 1968, 1-414)

CHAPTER II. ANIMAL CONTROL AND REGULATION

- Article 1. General Provisions
- Article 2. Dogs
- Article 3. Other Animals

ARTICLE 1. GENERAL PROVISIONS

2-101. DEFINITIONS. For the purposes of this chapter, the following words and phrases shall mean:

(a) 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.

(b) Animal - means 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.

(c) Animal Shelter - means 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.

(d) At-large - means to be outside of the property of the owner(s) of the animal or other authorized person(s), and not under control by leash or lead of the owner(s) or other authorized person(s) capable of restraining the animal in areas outside of the owner's or authorized person's property. Animals tethered to a stationary object within range of public thoroughfares are deemed to be "At-large."

(e) Bite - means 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.

(f) Cat - means any member of the species felis catus, regardless of sex.

(g) Dangerous or Vicious Animal - means any animal deemed to be dangerous or vicious per section 2-115.

(h) Dog - means any member of the species canis familiaris, regardless of sex.

(i) Fowl - means all animals that are included in the zoological class aves, which shall include, but not limited to, chickens, ducks, geese, turkeys, guineas and pigeons.

(j) Harbor - means any person who shall allow any animals to 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.

(k) Humane Live Animal Trap - means any cage trap that upon activation encloses an animal without placing any physical restraint upon any part of the body of such animal.

(l) Humanely Euthanize - means 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.

(m) Immediate Control - means the regulation and supervision by a competent person so that an animal is unable to run or get loose at will.

(n) Kenel - means any establishment, commercial or otherwise, maintained for breeding, rearing, grooming, boarding, or otherwise harboring in an enclosure in one location only, six or more dogs.

(o) Lake - shall include Big Creek, its wetlands and tributaries within the prescribed city limits of the City of Ellis, Kansas.

(p) Livestock - includes, but is not limited to cattle, horses, goats, sheep or other animals commonly regarded or used as farm or ranch animals.

(q) Neutered - means any male or female cat or dog that has been permanently rendered sterile.

(r) Own - means and 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.

(s) Owner - means 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 subsection (q) above.

(t) Vaccination - means 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.

(u) Veterinarian - means a doctor of veterinary medicine licensed by the State of Kansas.

(v) Waterfowl - includes domestic and wild ducks, geese, cormorants, grebes and like avian species.

(w) Willful Feeding - shall include any regular, habitual or incidental placing of foods such as whole corn, cracked corn or bread on the ground, in the river or in a ground or water feeder as may be accessible by waterfowl.

(Ord. 1185; Ord. 1197, Sec 2; Code 2005)

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 chief of police 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 chief of police of the city.

(b) Except as provided in subsection (c), 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 subsection (b) of this section, any law enforcement officer or the animal control officer may issue a citation to the owner, harbinger or keeper of an animal in violation of this chapter, and the person

receiving the citation shall, within 10 days, appear in the municipal court of the city to answer the charged violation of this chapter. (Code 1990)

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.

(c) Use firearms or other suitable weapons to destroy any rabid animal, any vicious animal as defined in section 2-115, or any animal creating a nuisance as defined in section 2-111, where such animal is impossible or impractical to catch, capture or tranquilize. (Code 1990)

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.

(b) It shall be unlawful for any person to interfere with the animal control officer in the exercise of his or her duties. (Code 1968, 2-102; Code 1990)

2-105. MUNICIPAL POUND ESTABLISHED. 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. When so contracted, the pound shall have the following services and facilities as a minimum:

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

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

(c) Individual isolation facilities for sick, biting, rabid and suspected rabid animals. (Code 1968, 2-312; Code 1990)

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. (Code 1968, 2-316; Code 1990)

2-107. CRUELTY TO ANIMALS. It shall be unlawful for any person to:

(a) Willfully or maliciously kill, maim, disfigure, torture; beat with a stick,

chain, club or other object; mutilate, poison, burn or scald with any substance; or otherwise cruelly set upon any animals, except that reasonable force may be employed to drive off vicious animals;

(b) Drive or work any animal cruelly or cruelly work any maimed, mutilated, infirm, sick or disabled animal, or cause, allow or permit the same to be done;

(c) Have, keep or harbor any animal which is infected with any dangerous or incurable and/or painfully crippling condition except as provided in section 2-108.

(d) Sell or offer for sale, barter, give away, or use as an advertising device or promotional display, living baby chicks, rabbits, ducklings or other fowl under two months of age in any quantity less than 12; or to sell, offer for sale, barter, give away, or display animals or fowls as specified in this section which have been dyed, colored or otherwise treated so as to impart to them an artificial or unnatural color. This section shall not be construed to prohibit the sale of animals or fowls as specified in this subsection, in proper facilities, by hatcheries or persons engaged in raising and selling such animals and fowls for recognized animal husbandry purposes;

(e) Promote, stage, hold, manage, or in any way conduct any game, exhibition, contest or fight in which one or more animals are engaged for the purpose of injuring, killing, maiming, or destroying themselves or any other animal;

(f) Neglect or refuse to supply such animal with necessary and adequate care, food, drink, air, light, space, shelter or protection from the elements as necessary for health and well-being of such kind of animal.

(g) Abandon or leave any animal in any place without making provisions for its proper care;

(h) These provisions shall not apply to the exceptions sanctioned under section 2-108.

In addition to the penalties provided in section 1-116 of this code, the municipal court judge may order a person convicted of violation under this section to turn the animal involved over to a designated humane society. All such animals taken by the designated agency may be placed with another or more suitable person or destroyed humanely as soon thereafter as is conveniently possible.

(Code 1968, 2-105; Code 1990)

2-108. SAME; EXCEPTIONS. The provisions of section 2-107 shall not apply to:

(a) Normal or accepted veterinary or veterinary hospital practices or treatment of animals under active veterinary care;

(b) Bona fide experiments carried on by commonly recognized research facilities;

(c) Killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of Chapter 32 or Chapter 47 of the Kansas Statutes Annotated;

(d) Rodeo practices accepted by the rodeo cowboys' association;

(e) The humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the owner thereof or by an authorized agent such as a licensed veterinarian, at the request of the owner;

(f) The humane killing of an animal by the animal control officer, a public

health officer or a law enforcement officer in the performance of his or her official duty;

(g) The humane killing of an unclaimed animal after three full business days following the receipt of such animal at a municipal pound or an incorporated humane society shelter by the owner, operator, or authorized agents of such establishments. (Ord. 1168, Sec. 1; Code 2002)

2-109. KEEPING ANIMALS. 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. This provision shall not apply to:

(a) 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;

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

(c) 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 section 2-113 of this chapter;

(d) The transporting of animals through the city by ordinary and customary means. (Code 1968, 2-101,103; Code 1990)

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. (Code 1990)

2-111. NUISANCE; ANIMAL ACTIVITIES PROHIBITED. 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. For the purpose of this section, "nuisance" is defined as any animal which:

(a) Molests or interferes with persons in the public right-of-way;

(b) Attacks or injures persons, or other domestic animals;

(c) Damages public or private property other than that of its owner or harbinger by its activities or with its excrement;

(d) Scatters refuse that is bagged or otherwise contained;

(e) Causes any condition which threatens or endangers the health or well-being of persons or other animals.

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.

(Code 1990)

2-112. NOISY ANIMALS. The keeping, or harboring of any animal which by loud, frequent and habitual barking, howling, yelping, mewing, roaring or screeching

shall disturb the peace of any neighborhood is hereby prohibited. It shall be the duty of any person harboring or keeping such loud or noisy animal or animals to abate the condition, and if he or she fails to do so, the city may abate it by taking up, impounding and/or disposing of the animal at the expense of the owner.
(Code 1968, 2-310; Code 1990)

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 for 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 on 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 which 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. (Code 1990)

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 sections 8-501:508 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.

(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.

(Code 1990)

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. (Code 1990)

2-115. VICIOUS ANIMALS. (a) Prohibited: It shall be unlawful for any person to keep, possess or harbor a vicious animal within the city. Impoundment of animals whose owners have been cited for violation of this section shall be at the discretion of the animal control officer. If the animal presents a clear and present danger to the public health or safety, it shall be the duty of the animal control officer or his or her agent to impound such animal.

(b) Defined: For purposes of this chapter a vicious animal shall include:

(1) Any animal with a known propensity, tendency or disposition to attack

unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals; or

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

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

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

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

(1) The seriousness of the attack or bite;

(2) Past history of attacks or bites;

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

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

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

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

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

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

(f) Release of: If a complaint has been filed in the municipal court against the owner of an impounded animal for a charge under this section, the animal shall not be released except on the order of the municipal judge, who may also

direct the owner to pay all impounding fees in addition to any penalties for violation of this chapter. The municipal judge may, upon making a finding that an animal is vicious or that it represents a clear and present danger to the citizens or to other animals in the community, order the animal to be destroyed in a humane manner by the animal shelter. Surrender of an animal by the owner thereof to the animal control officer does not relieve or render the owner immune from the decision of the court, nor to the fees and fines which may result from a violation of this section.

(Code 1968, 2-106.1; Code 1990)

2-116. **RUNNING AT LARGE.** It shall be unlawful for any person to willfully allow any animal, cat 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 section 2-117 or 2-207 (dogs). (Code 1968, 2-104,201; Code 1990)

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 shall be set by resolution.

(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 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 five 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 governing body 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. (Code 1990; Ord. 1134, Sec. 1; Code 2005)

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 sections 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. (Code 1990)

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 which 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 therefore. 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 subsection (a), the owner of any such animal may, at his or her own expense, take such animal to any duly qualified and licensed veterinarian 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, the veterinarian will make proper arrangements for examination.

(c) Any animal desired for observation by the local health officer under this section shall be delivered to the animal control officer or any law enforcement officer upon demand and shall not be withheld, hidden or harbored. Any person violating this provision shall be guilty of a violation of this code. Upon refusal of any person to so deliver such animal, the municipal judge shall cause a warrant to be issued for the arrest of such person, which warrant shall also provide for the surrender of the animal and shall be lawful authority for the apprehending and forcible taking of such animal.

(Code 1990)

2-119A. IMPOUNDMENT OF RABIES SUSPECTS. Any law enforcement officer or local health officer may take up, upon private or public property, any animal which has bitten or scratched a person or other animal and impound the animal 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 therefore. 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. (Code 1990)

2-120. ANIMALS BITTEN BY RABID ANIMALS. 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. 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:

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

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

days; and

(c) 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

(d) If the animal is found to have contracted rabies during confinement, it shall be properly disposed of. (Code 1990)

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.
(Code 1990)

2-122. EMERGENCY; PROCLAMATION. The mayor is hereby authorized whenever in his or her opinion the danger to the public safety from rabid animals is made imminent to issue a proclamation ordering all persons owning any animal in the city to confine the animal in a good and sufficient enclosure from which the animal cannot escape, or fasten such animal by means of a chain on the premises where the owner may reside, for such time as may be specified in such proclamation. Any animal not confined during such time may be disposed of wherever found by any police officer, or the animal control officer of the city. The owner of such animal shall be prosecuted for such violation thereof. (Code 1968, 2-317; Code 1990)

2-123. NUMBER OF ANIMALS. (a) No person or household shall own or harbor more than five (5) dogs of six (6) months of age, or older, or more than one (1) litter of pups, or more than five (5) cats of six (6) months of age, or older, or more than one (1) litter of cats, or more than a total of five (5) dogs and cats, more than six (6) months of age in any combination.
(b) This section shall not apply to, and will not be construed to apply to, a licensed veterinarian operating an animal hospital. (Code 2005)

ARTICLE 2. DOGS

2-201.

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

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

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

(d) The city clerk shall collect an annual registration fee of \$5.00 for each neutered male dog and for each spayed female dog, and \$10.00 for each un-neutered male dog and for each un-spayed female dog.

(e) The registration year shall be from January 1st through December 31st of each year. The fee shall be payable before March 1st of each year or within 10 days of acquisition of the dog without penalty.

(f) Any person owning or harboring a dog which has been retired from the United States Armed Forces, or a dog trained to lead blind persons, which shall be registered as a seeing-eye dog, shall upon application to the city clerk and presenting satisfactory proof of the same, be entitled to register such dog with the city clerk and receive a license therefor without payment of any tax required by this article; and no tax shall be due or payable by the owner or keeper of any dog who shall keep the same temporarily within the city; provided, that no dog exempted hereunder shall at any time be permitted to be at large within the city unless followed or accompanied by and under the immediate control and call of the owner or keeper thereof.

(g) It shall be the duty of the city clerk during the first week of January, and the last week of February of each year to publish once in each of such weeks in the official city paper a notice of the tax required to be paid by this article together with a summary of the code section pertaining to dogs running at large in the city.

Registration fees as enumerated above may be prorated for newly acquired dogs or for dogs owned by a person or persons moving to and establishing a home in the city during a calendar year. Every owner or harbinger of dog or dogs who shall fail to register the same prior to the 1st day of March of each year shall pay in addition to the registration fee herein provided a penalty fee for late registration of \$2.00 per month. (Code 1968, 2-301:304,306:309; Code 1990)

2-202.

DOG TAGS. It shall be the duty of the city clerk or designated agent, upon a showing of current rabies immunization and receipt of the registration fee hereinbefore required, to keep in a book suitable for the registration of dogs, the time of the registration, the name of the owner or keeper, the number of the

registration and the amount paid therefor, and shall deliver to the owner or keeper of the dog a certificate in writing, stating that the person has registered the dog and the number by which the dog is registered, and shall also deliver to the owner or keeper of the dog a tag with the registration number and the registration year thereon, which shall be, by the owner or keeper, attached to the collar to be used on the dog so registered. When any tag has become lost during a registration period, the owner of the dog may request a duplicate tag for the remainder of the registration period. When so requested, the city clerk shall, upon presentation of the registration certificate, issue a duplicate of such tag upon the payment of \$1 fee. It shall be unlawful for any person to take off or remove the city registration tag from any dog belonging to another, or remove the strap or collar on which the same is fastened. (Code 1990)

2-203. SAME; COUNTERFEIT TAG. It shall be unlawful for any person to place on any dog a tag issued for any other dog or to make or use any false, forged or counterfeited tag or imitation thereof. (Code 1990)

2-204. EVIDENCE OF VACCINATION. It shall be unlawful for the owner of any dog kept within the city to fail to display a current certificate of immunization against rabies issued by an accredited veterinarian evidencing the vaccination of such dog within two years, when requested by the animal control officer or any law enforcement officer. (Code 1990)

2-205. VISITING DOGS. The provisions of this article with respect to registration shall not apply to any dog owned by any person visiting or temporarily remaining within the city for less than 30 days. However, such dogs shall be kept under restraint by the owner thereof at all times. (Code 1990)

2-206. RUNNING AT LARGE; FINE. (a) It shall be unlawful for the owner or harbinger of any dog to permit such dog to run at large within the city at any time;
(b) Any dog running at large within the city shall be impounded as set out in section 2-207;
(c) For the offense of an animal running at large the owner or harbinger claiming any dog shall pay the board bill for the dog in addition to a fine to be set by Resolution of the City of Ellis, Kansas, which increases incrementally for subsequent offenses.
(Ord. 1273; Code 2009)

2-207. IMPOUNDMENT; RECORD; NOTICE; REDEMPTION; MINIMUM FEE.
(a) Any dog found in violation of the provisions of this article shall be subject to impoundment by the city.
(b) A record of all dogs impounded shall be kept by the city containing the following information: color, sex, weight, height, identifying marks, registration number (if any) and the date of impoundment.

(c) If the dog impounded has a current registration tag attached to its collar or if the impounding officer knows the identity of the dog's owner, the owner of such dog, as shown by the records of the city clerk shall be notified in writing as soon as possible or at least 24 hours before such dog is disposed of by destruction or sale. If, at the end of three days the city clerk has been unable to locate the owner, or the owner, upon having been located, refuses to claim or redeem said dog, then the dog may be sold, euthanized, or otherwise disposed of.

(d) If the dog impounded has no current registration tag and the identity of the animal's owner is unknown to the animal control officer or the impounding law enforcement officer then such impounding officer shall, upon taking any such animal into custody and impounding the same:

(1) Make a record thereof, with a description of the animal and the date and place taken into custody and the place of impounding;

(2) Immediately post a public notice on the door of the office of the city building with a picture of the dog where the notice can be viewed by the public without having to enter the city building, stating that the animal, describing the same with the date and place of taking, has been taken up.

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. If within three full business days the owner does not appear to claim the dog, then the dog may be sold, euthanized, or otherwise disposed of.

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

(f) The minimum impoundment fee shall be \$7.00.

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

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

(i) The redemption of any dog impounded for a violation of any provision of this chapter shall be prima facie evidence of the violation of such provision by the person redeeming the dog. (Ord. 1134, Sec. 2; Ord. 1168, Secs. 2:3; Code 2002)

2-208.

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

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

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

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

(c) Nothing in this section shall be construed to require sterilization of a dog which is being held by the city and which may be claimed by its rightful owner within the holding period established in section 2-207. (Code 2002)

2-209.

CONFINEMENT OF DOGS IN HEAT. Any un-spayed female dog in the stage of estrus (heat) shall be confined during such period of time in a house, building or secure enclosure, and the area of enclosure shall be so constructed that no other dog or dogs may gain voluntary access to the confined animal except for purposes of planned breeding. Any animal that is in the state of estrus (heat) and that is not properly confined, or any such animal that is creating a neighborhood nuisances, shall be removed to a boarding kennel, to a veterinary hospital or to the animal shelter. All expenses incurred as a result of the confinement shall be paid by the owner. The owner of animals removed to the animal shelter shall be charged at the rate established from time to time by the animal shelter for routine confinement. (Code 1990)

2-210.

MUZZLING. Whenever the mayor shall deem it necessary for the protection and welfare of the inhabitants of the city, he or she shall issue an order requiring all dogs kept within the city to be effectively muzzled for such length of time as may be specified in the order, to prevent them from biting or injuring persons or animals. Such order shall be published in the official newspaper of the city for such period of time as the mayor may deem necessary. (Code 1968, 2-317; Code 1990)

ARTICLE 3. OTHER 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 saimangs.
- (3) Baboons.
- (4) Badgers.
- (5) Bears.
- (6) Bison.
- (7) Bobcats.
- (8) Cheetahs.
- (9) Crocodilians, 30 inches in length or more.
- (10) Constrictor snakes, six feet in length or more.
- (11) Coyotes.
- (12) Deer; includes all members of the deer family, for example, white-tailed deer, elk, antelope and moose.
- (13) Elephants.
- (14) Game cocks and other fighting birds.
- (15) Hippopotami.
- (16) Hyenas.
- (17) Jaguars.
- (18) Leopards.
- (19) Lions.
- (20) Lynxes.
- (21) Monkeys.
- (22) Ostriches.
- (23) Pumas; also known as cougars, mountain lions and panthers.
- (24) Raccoons.
- (25) Rhinoceroses.
- (26) Skunks.
- (27) Tigers.
- (28) Wolves.

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

- (1) Their location conforms to the provisions of the zoning ordinance of the city.
- (2) All animals and animal quarters are kept in a clean and sanitary condition and so maintained as to eliminate objectionable odors.
- (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. (Code 1990)

CHAPTER III. BEVERAGES

Article 1.	General Provisions
Article 2.	Cereal Malt Beverages
Article 3.	Alcoholic Liquor
Article 4.	Private Clubs
Article 5.	Drinking Establishments
Article 6.	Caterers
Article 7.	Temporary Permits

ARTICLE 1. GENERAL PROVISIONS

3-101. DEFINITIONS. Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purpose of this chapter, have the meanings indicated in this section.

(a) Alcohol - means 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.

(b) Alcoholic Liquor - means 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.

(c) Caterer - means 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.

(d) Cereal Malt Beverage - means 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 percent alcohol by weight.

(e) Class A Club - means 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 of Kansas, 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.

(f) Class B Club - means 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.

(g) Club - means a Class A or Class B club.

(h) Drinking Establishment - means premises which may be open to the general public, where alcoholic liquor by the individual drink is sold.

(i) General Retailer - means a person who has a license to sell cereal malt beverages at retail.

(j) Limited Retailer - means 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.

(k) Place of Business - Any place at which cereal malt beverages or alcoholic beverages or both are sold.

(l) Temporary Permit - means a permit, issued in accordance with the laws of the State of Kansas, which allows the permit holder to offer for sale, sell and serve alcoholic liquor for consumption on unlicensed premises, open to the public.

(m) Wholesaler or distributor - Any individuals, firms, copartnerships, corporations and associations which sell or offer for sale any beverage referred to in this chapter, to persons, copartnerships, corporations and associations authorized by this chapter to sell cereal malt beverages at retail.

(Code 1968, 4-501; Code 1990)

3-102. 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 derives not more than 30 percent of its gross receipts in each calendar year from the sale of alcoholic liquor for on-premises consumption. (Code 1990)

3-103. CONSUMPTION ON PUBLIC PROPERTY. No person shall drink or consume any alcoholic liquor on city owned public property except for the property commonly known as the Ellis Public Campground. (K.S.A. Supp. 41-719; Code 1990)

3-104. 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 Chapter 27 of the Kansas Statutes Annotated.

(K.S.A. 41-719; Code 1968, 11-801, 805; Code 1990)

- 3-105. 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.
 - (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.
 - (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. (Code 1968, 11-803; Code 1990)
- 3-106. UNDERAGE PURCHASER. (a) It shall be unlawful for any person under 21 years of age to purchase or attempt to purchase any cereal malt beverage.
- (b) It shall be unlawful for any person under 21 years of age to purchase or attempt to purchase any alcoholic liquor. (K.S.A. 41-715, 41-2721; Code 1990)

ARTICLE 2. CEREAL MALT BEVERAGES

- 3-201. LICENSE REQUIRED OF RETAILERS. (a) It shall be unlawful for any person to sell any cereal malt beverage at retail without a license for each place of business where cereal malt beverages are to be sold at retail.
- (b) It shall be unlawful for any person, having a license to sell cereal malt beverages at retail only in the original and unopened containers and not for consumption on the premises, to sell any cereal malt beverage in any other manner.
- (K.S.A. 41-2702; Code 1968, 4-502; Code 1990)
- 3-202. APPLICATION. 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 of Kansas, and shall contain:
- (a) The name and residence of the applicant and how long he or she has resided within the State of Kansas;
- (b) The particular place for which a license is desired;
- (c) The name of the owner of the premises upon which the place of business is located;
- (d) The names and addresses of all persons who hold any financial interest in the particular place of business for which a license is desired.
- (e) 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;
- The application shall be accompanied by a statement, signed by the applicant, authorizing any governmental agency to provide the city with any information pertinent to the application. One copy of such application shall immediately be transmitted to the chief of police of the city for investigation of the applicant. It shall be the duty of the chief of police to investigate such applicant to determine whether he or she is qualified as a licensee under the provisions of this chapter. The chief shall report to the governing body 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. (Code 1968, 4-503,505; Code 1990)
- 3-203. LICENSE GRANTED; DENIED. (a) The journal of the governing body shall show the action taken on the application.
- (b) If the license is granted, the city clerk shall issue the license which shall show the name of the licensee and the year for which issued.
- (c) No license shall be transferred to another licensee.
- (d) If the license shall be denied, the license fee shall be immediately returned to the person who has made application. (Code 1990)

- 3-204. LICENSE TO BE POSTED. Each license shall be posted in a conspicuous place in the place of business for which the license is issued. (Code 1990)
- 3-205. LICENSE, DISQUALIFICATION. No license shall be issued to:
- (a) A person who has not been a resident in good faith of the state of Kansas for at least one year immediately preceding application and a resident of Ellis 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 percent of the stock of such corporation would be ineligible to receive a license hereunder for any reason other than nonresidence 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 percent of the stock of such corporation, has been an officer, manager or director, or a stockholder owning in the aggregate more than 25 percent of the stock, of a corporation which: (A) Has had a retailer's license revoked under K.S.A. 41-2708 and amendments thereto; or (B) has been convicted of a violation of the drinking establishment act or the cereal malt beverage laws of this state.
 - (h) A person whose place of business is conducted by a manager or agent unless such manager or agent possesses the same qualifications required of the licensee.
 - (i) A person whose spouse would be ineligible to receive a retailer's license for any reason other than citizenship, retailer residency requirements or age, except that this subsection (i) shall not apply in determining eligibility for a renewal license.
- (Code 1990)
- 3-206. LICENSE FEE. The rules and regulations regarding license fees shall be as follows:
- (a) General Retailer -- for each place of business selling cereal malt beverages at retail, \$50.00 per calendar year.
 - (b) Limited Retailer -- for each place of business selling only at retail cereal malt beverages in original and unopened containers and not for consumption on the premises, \$50.00 per calendar year.
 - (c) In addition to the licenses provided for herein above a licensee may be granted a license to sell, for one day as specified in the application and the license, cereal malt beverages and under the same provisions as set out herein above, except that such license shall be for one day only as requested in the

application and as specified in the license granted and, the license fee for such one day license shall be \$5.00.

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. No license issued hereunder shall be transferable from person to person.

(K.S.A. 41-2702; Code 1968, 4-504; Code 1990)

3-207. **SUSPENSION OF LICENSE.** The chief of police, upon five days written notice, shall have the authority to suspend such license for a period not to exceed 30 days, for any violation of the provisions of this chapter or other laws pertaining to cereal malt beverages, which violation does not in his or her judgment justify a recommendation of revocation. The licensee may appeal such order of suspension to the governing body within seven days from the date of such order. (Code 1990)

3-208. **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 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 article or has become ineligible to obtain a license under this article;

(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 cereal malt beverages;

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

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

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

(g) For the employment of any person under the age established by the State of Kansas for employment involving dispensing 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 under this article;

(j) The nonpayment of any license fees;

(k) If the licensee has become ineligible to obtain a license under this chapter;

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

(K.S.A. 41-2708; Code 1990)

- 3-209. SAME; APPEAL. The licensee, within 20 days after the order of the governing body revoking any license, may appeal to the district court of Ellis County and the district court shall proceed to hear such appeal as though such court had original jurisdiction in the matter. Any appeal taken under this section shall not suspend the order of revocation 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. (K.S.A. 41-2708; Code 1990)
- 3-210. CHANGE OF LOCATION. If a licensee desires to change the location of his or her place of business, he or she shall make an application to the governing body showing the same information relating to the proposed location as in the case of an original application. Such application shall be accompanied by a fee of \$25.00. 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. (Code 1968, 4-504; Code 1990)
- 3-211. WHOLESALERS AND/OR DISTRIBUTORS. It shall be unlawful for any wholesaler and/or distributor, his, her or its agents or employees, to sell and/or deliver cereal malt beverages within the city, to persons authorized under this article to sell the same within this city unless such wholesaler and/or distributor has first secured a license from the director of revenue, state commission of revenue and taxation of the State of Kansas authorizing such sales. (K.S.A. 41-307:307a; Code 1990)
- 3-212. BUSINESS REGULATIONS. It shall be the duty of every licensee to observe the following regulations.
- (a) The place of business licensed and operating under this article shall at all times have a front and rear exit unlocked when open for business.
 - (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 subsection (d) and subsection (l), no 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; closing hours for clubs shall conform to K.S.A. 41-2614 and any amendments thereto.
 - (d) 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. 41-2701 et seq., 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 cereal malt beverage to any person under the legal age for consumption of cereal malt beverage.

(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 the legal age for consumption of cereal malt beverage in dispensing cereal malt beverages. No licensee shall employ any person who has been judged guilty of a felony.

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

(m) No license shall be issued for any place of business in the city except for a room or rooms located on the first floor being the street floor of a building wherein the place of business is located. The building in which such place of business is located must pass all state and local fire regulations and laws. There must be at least two entrances into the place of business from which there is direct access from either a street or alley, which entrances must be open at all times during business hours. The front entrance to the place of business shall have at least 800 square inches of glass in the door through which vision to the interior of the premises is unobstructed in any manner. No cereal malt beverages may be sold or served to any person in or about or upon a vehicular for consumption therein or thereon in or about a place of business licensed hereunder.

(Ord. 1242, Sec. 1; Ord. 1091, Sec. 1; Code 2006)

3-213.

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

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

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

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

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

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

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

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

(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;

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

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

(Code 1990)

3-214. **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. (Code 1968, 4-507; Code 1990)

3-215. **MINORS ON PREMISES.** (a) It shall be unlawful for any person under 18 years of age to remain on any premises where the sale of cereal malt beverages is licensed for on-premises consumption.

(b) This section shall not apply if the person under 18 years of age is an employee of the licensed establishment, or is accompanied by his or her parent or guardian, or if the licensed establishment derives not more than 30 percent of its gross receipts in each calendar year from the sale of cereal malt beverages for on-premises consumption. (Code 1990)

ARTICLE 3. ALCOHOLIC LIQUOR

- 3-301. STATE LICENSE REQUIRED. (a) It shall be unlawful for any person to keep for sale, offer for sale, or expose for sale or sell any alcoholic liquor as defined by the "Kansas Liquor Control Act" without first having obtained a state license to do so.
- (b) The holder of a license for the retail sale in the city of alcoholic liquors by the package issued by the state director of alcoholic beverage control shall present such license to the city clerk when applying to pay the occupation tax levied in section 3-302 and the tax shall be received and a receipt shall be issued for the period covered by the state license. (Code 1968, 4-602; Code 1990)
- 3-302. OCCUPATIONAL TAX. There is hereby levied an annual occupation tax of \$150.00 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. (Code 1968, 4-601; Code 1990)
- 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. (Code 1968, 4-603; Code 1990)
- 3-304. HOURS OF SALE. No person shall sell at retail any alcoholic liquor:
- (a) Before 9:00 a.m. or after 11:00 p.m. on any day when the sale thereof is permitted, except as provided in subsection (b).
- (b) Sale at retail of alcoholic liquor in the original package is allowed within the City on any Sunday, except Easter, and on Memorial Day, Independence Day and Labor Day, between the hours of 12:00 noon and 8:00 p.m. (K.S.A. 41-712; Ord. 1242, Sec. 2; Code 2006)
- 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;
- (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; or
- (d) Have in his or her possession for sale at retail any bottles, cask, or other containers containing alcoholic liquor, except in the original package.
- (e) 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. (Code 1990)

ARTICLE 4. PRIVATE CLUBS

- 3-401. LICENSE REQUIRED. It shall be unlawful for any person granted a private club license by the State of Kansas to sell or serve any alcoholic liquor authorized by such license within the city without first obtaining a local license from the city clerk. (Code 1990)
- 3-402. LICENSE FEE. (a) There is hereby levied an annual 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 after any renewal of a state license. The city license fee for a Class A club shall be \$100.00 and the city license fee for a Class B club shall be \$100.00.
- (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.
(Ord. 1034; Sec. 1; Code 1990)
- 3-403. BUSINESS REGULATIONS. (a) No club licensed hereunder shall allow the serving, mixing or consumption of alcoholic liquor on its premises between the hours of 2:00 a.m. and 9:00 a.m. on any day.
- (b) Cereal malt beverages may be sold on premises licensed for the retail sale of cereal malt beverages for on-premises consumption at any time when alcoholic liquor is allowed by law to be served on the premises.
- (c) No club membership shall be sold to any person under 21 years of age, nor shall alcoholic beverages or cereal malt beverages be given, sold or traded to any person under 21 years of age. (Code 1990)

ARTICLE 5. DRINKING ESTABLISHMENTS

- 3-501. **LICENSE REQUIRED.** It shall be unlawful for any person granted a drinking establishment license by the State of Kansas to sell or serve any alcoholic liquor authorized by such license within the city without first obtaining a city license from the city clerk. (Code 1990)
- 3-502. **LICENSE FEE.** (a) There is hereby levied an annual license fee in the amount of \$100.00 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. (Ord. 1034, Sec. 1; Code 1990)
- 3-503. **BUSINESS REGULATIONS.** (a) No drinking establishment licensed hereunder shall allow the serving, mixing or consumption of alcoholic liquor on its premises between the hours of 2:00 a.m. and 9:00 a.m. on any day.
- (b) Cereal malt beverages may be sold on premises licensed for the retail sale of cereal malt beverage for on-premises consumption at any time when alcoholic liquor is allowed by law to be served on the premises.
- (c) No alcoholic beverages or cereal malt beverages shall be given, sold or traded to any person under 21 years of age. (Code 1990)

ARTICLE 6. CATERERS

- 3-601. **LICENSE REQUIRED.** It shall be unlawful for any person licensed by the State of Kansas 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. (Code 1990)
- 3-602. **LICENSE FEE.** (a) There is hereby levied an annual license fee in the amount of \$25.00 per day not to exceed \$250.00 in any calendar year 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. (Code 1990)
- 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. (Code 1990)
- 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 48 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. (Code 1990)

ARTICLE 7. TEMPORARY PERMITS

- 3-701. PERMIT REQUIRED. It shall be unlawful for any person granted a temporary permit by the State of Kansas to sell or serve any alcoholic liquor within the city without first obtaining a local temporary permit from the city clerk. (Code 1990)
- 3-702. PERMIT FEE. (a) There is hereby levied a temporary permit fee in the amount of \$25.00 per day on each group or individual holding a temporary permit issued by the state director of alcoholic beverage control authorizing sales within the city, which fee shall be paid before the event is begun under the state permit.
(b) Every temporary permit holder shall cause the temporary permit receipt to be placed in plain view on any premises within the city where the holder of the temporary permit is serving or mixing alcoholic liquor for consumption on the premises. (Code 1990)
- 3-703. CITY TEMPORARY PERMIT. (a) It shall be unlawful for any person to conduct an event under a state issued temporary permit without first applying for a local temporary permit at least three days before the event. Written application for the local temporary permit shall be made to the city clerk and shall clearly state:
(1) the name of the applicant;
(2) the group for which the event is planned;
(3) the location of the event;
(4) the date and time of the event;
(5) any anticipated need for police, fire or other municipal services.
(b) Upon presentation of a state temporary permit, payment of the city's temporary permit fee and a written application as provided for in subsection (a), 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. (Code 1990)
- 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 6:00 a.m. at any event for which a temporary permit has been issued.
(b) No alcoholic beverages shall be given, sold or traded to any person under 21 years of age. (Code 1990)

CHAPTER IV. BUILDINGS AND CONSTRUCTION

- Article 1. Building Code
- Article 2. Electrical Code
- Article 3. Plumbing and Gas-Fitting Code
- Article 4. Moving Buildings
- Article 5. Dangerous and Unfit Structures
- Article 6. Heating and Cooling Standards
- Article 7. Signs
- Article 8. Excavations
- Article 9. Building Trades Boards
- Article 10. Fences
- Article 11. Subterranean Termite Control

ARTICLE 1. BUILDING CODE

4-101. DEFINITIONS. As used in this article, the words and phrases herein defined shall have the following meanings unless the context otherwise requires:

(a) Building Official - as used in the International Building Code, means the Building Inspector of the City of Ellis, Kansas, and such assistants as may be appointed by the city council to perform any duties under the provisions of this code.

(b) Corporate Counsel - as used in the Building Code, means the City Attorney of the City of Ellis, Kansas;

(c) Governing Body - as used in the Building Code means the City Council of the City of Ellis, Kansas.

(d) Municipality - as used in the Building Code, means the City of Ellis, Kansas. (Ord. 1206, Sec. 1; Code 2005)

4-102. INTERNATIONAL BUILDING CODE ADOPTED. There is hereby adopted by the City, for the purpose of establishing rules and regulations for the erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment, use, height, area and maintenance of buildings or structures in the City of Ellis, Kansas, the certain standard building codes known as the International Building Code International Residential Code, and International Existing Building Code, all 2003 Editions, and appendix A and I, and the whole of such Building Code, except Chapter 11, of which not less than three (3) copies have been and are now filed in the office of the city clerk, as provided by law, and the same are adopted by reference and incorporated as a part of this chapter as if set out at length in this chapter, and the provisions of such Building Code shall be controlling for the purpose of this chapter within the corporate limits of the city.

Any person violating any provision of such code shall be punished as provided in section 1-116 of this code. (Ord. 1206, Sec. 2; Code 2005)

- 4-103. ADDITIONAL PROVISIONS. The following sections of this article are in addition to the provisions of the standard code incorporated by reference in section 4-102. (Code 1990)
- 4-104. BUILDING OFFICIAL; POWERS; DUTIES. (a) This and other articles of the city relating generally to building and structures shall be administered and enforced by the mayor. The city superintendent 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 building inspector shall prepare such application, permit, inspection and record forms as may be required for the purposes of the article. The building inspector 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. (Code 1990)
- 4-105. BUILDING INSPECTOR; APPOINTMENT. The city superintendent shall 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. (Code 1990)
- 4-106. 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. (Code 1990)
- 4-107. SAME; POWERS. The building inspector shall have the following powers:
 (a) To enter any building or structure or premises at any reasonable hour, whether complete or in the process of erection, to perform the duties contained in this chapter;
 (b) To adopt and enforce all such prudent emergency measures as he or she may deem necessary and expedient for the public safety under the laws of the city;

(c) May cause any work done in violation of this chapter to be discontinued until he or she shall have satisfactory evidence that the work will be done in accordance with the building regulations of the city, subject to the right of any builder or owner to appeal to the governing body. (Code 1990)

4-108. SAME; RIGHT OF ENTRY. The building inspector, or his or her agent, upon proper identification, shall have authority to enter any building, structure or premises at any reasonable hour to perform his or her duties as set out in this chapter. (Code 1990)

4-109. 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. (Code 1990)

4-110. BUILDING PERMIT REQUIRED; APPLICATION; APPROVAL. It shall be unlawful for any person to hereafter erect or cause to be erected within the city any building or structure of any kind or enlarge or add to the outside dimension thereof, or relocate any building or structure already erected or which may hereafter be erected or remodel any building or structure within the city without a building permit being first obtained therefor from the building inspector. 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. (Code 1990)

4-111. SAME; APPLICATION INFORMATION REQUIRED. (a) A building permit shall be issued, in writing, upon application to the building inspector or his or her designee, on a form or forms provided for the purpose. This application shall, among other things, disclose the following:

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

(12) Such other information as may be pertinent to the issuance of the required permit.

(b) 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.

(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 building work covered by the permit.

(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. (Code 1990)

4-112. 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. (Code 1990)

4-113. SAME; FEES. The fee for a building permit shall be set by resolution. 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. (Code 1990)

4-114. 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. (Code 1990)

4-115. CERTIFICATE OF APPROVAL. Upon the completion of any work under a building permit, the chief building official, the building inspector or his or her designee is authorized to issue a certificate of approval for the occupancy and use

of the building or structure. The certificate may show the number of inspections made and the orders and corrections required during the course of the work. A copy of such certificate may be given the owner. (Code 1990)

4-116. 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. (Code 1990)

4-117. 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. (Code 1990)

4-118. INSPECTION FEE. An initial inspection fee and an inspection fee for subsequent inspections required, shall be paid before any building or construction work will be approved or a certificate of approval issued. Inspection fees shall be established by resolution. (Code 1990)

4-119. BUILDER OR BUILDING CONTRACTOR DEFINED.

(a) A General Contractor, shall be: (1) Any person, firm, co-partnership, corporation, association, or any combination thereof, whether a resident or not of the city, who 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 the city, for which a building or construction permit may now or thereafter be required by ordinance of such city; or,

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

(3) Who builds, constructs, alters, adds to or wrecks any building structures either on his or her own or other property for the purpose of sale or speculation,

except one and two-family residences and buildings or structures accessory to them and intended for his or her own personal use and permanent occupancy.

(b) A Building Contractor, shall be limited to construction and/or remodeling of commercial buildings or multiple dwelling residential buildings, not exceeding three stories in height.

(c) A Residential Contractor, shall be limited to construction, remodeling, repair, or improvement of one-, two-, three- or four-family residences not exceeding two stories in height.

(d) A Roofing Limited Contractor, shall be qualified to install, repair and replace residential steep roof covering. Work may include fabrication and installation of sheet metal incidental to residential steep roof covering and installation of asphalt shingles, asphalt roll roofing materials, clay tile, concrete tile, slate, wood shake or shingles and other prefabricated shingle products.

(e) A Roofing Unlimited Contractor, shall be qualified to install, repair or replace roof covering. Work may include, but shall not be limited to, roof deck installation, roof coating, painting, or covering, including use of sheet metal and installation of the sheet metal products incidental to roofing work or other material in connection therewith, or any combination thereof, and including installation of non-structural decking and siding.

(f) A Limited Contractor, shall be any person, firm, co-partnership, corporation, association, or any combination thereof, whether a resident or not of the city, who undertakes with or for another for a fixed sum, price, fee or any compensation other than wages, to perform a specific task such as, but not limited to, siding, masonry, plastering, excavation, waterproofing, foundation work, sign hanging, cement work, swimming pool installation, house wrecking or moving and the like.

(g) The Contractor, as defined, shall not mean or include:

(1) Any subcontractor working under the supervision of a general contractor; or,

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

(3) Any owner or his authorized agents or employees who constructs, remodels, repairs or improves one or two-family residences not exceeding two (2) stories in height and structures or buildings accessory thereto.

(4) Any person performing construction work in an amount less than Two Hundred Dollars (\$200.00), exclusive of labor.

(5) Any owner or his authorized agents or employees who performs alterations or additions to a building, including, but not limited to, store fronts or facades, interior alterations or additions, fixtures, cabinet work, appliances or other equipment, provided that such alterations or additions do not create or affect the structural systems, the exiting or the life safety of the building.

(Ord. 1203; Code 2005)

4-120.

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.

(d) The contractor shall provide to the city clerk proof of passing the ICBO/Experior Exam. (Ord. 1235; Code 2006)

4-121. SAME; APPLICATION; GRANTING. 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, waterproofing, metal work, foundation work, sign hanging, cement work and 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 application shall be reviewed by the chief building official for his approval. Upon the chief building official's approval and the payment of the fees hereinafter provided, the city clerk shall issue such license. (Ord. 1167, Sec. 1)

4-122. SAME; LICENSE FEES; CONDITIONS; RENEWAL; UNLAWFUL ACTS.
(a) Every Contractor, as defined in Section 4-119, shall pay a license fee in the amount of \$50.00. Such fee shall be paid biennially for a two-year period or major fraction thereof for a licensed issued in an even numbered year. Any license during an odd numbered year shall be issued upon payment of one-half the biennial 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 biennially as in the case of an original license on or before the first day of January of the odd numbered year for which issued. All licenses shall be valid for two year terms beginning January 1st and ending December 31st of every odd numbered year.

(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. (Ord. 1289; Code 2009)

4-123. INSURANCE. A builder or building contractor shall 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 of Kansas. 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. (Code 1990)

4-124.

LICENSE SUSPENSION; REVOCATION; APPEAL; UNLAWFUL ACTS.

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

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

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

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

(d) Any person, firm, corporation or agent, who shall violate a provision of this code (International Building Code), or fail to comply with it, or with any of the requirements of it, or who shall erect, construct, alter, demolish, or move any structure, or has erected, constructed, altered, repaired, moved, or demolished a building or structure in violation of any of the provisions of this code, shall be guilty of a misdemeanor. Each such person shall be deemed guilty of a separate offense for each and every day or portion of a day during which a violation of any of the provisions of this code is committed, or continued and upon conviction of any violation such person shall be punished by a fine not exceeding one hundred dollars (\$100.00), or by imprisonment for a period not exceeding thirty (30) days, or both such fine and imprisonment, at the discretion of the court. (Ord. 1206, Sec. 3; Code 2005)

- 4-125. **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. (Code 1990)
- 4-126. **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. (Code 1990)
- 4-127. **SEVERABILITY.** If any section of the Uniform 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. (Code 1990)

ARTICLE 2. ELECTRICAL CODE

4-201. DEFINITIONS. For the purpose of this article, the words and phrases used herein shall have the meanings ascribed to them in this section, unless the context clearly indicates to the contrary.

(a) Approved - shall mean approved by the chief building official, the electrical inspector or his or her designee.

(b) Authorized person - shall mean 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.

(c) City - shall mean the territory within the corporate limits of this city.

(d) Conductor - shall mean a wire or cable or other form of metal suitable for carrying the electric current or potential.

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

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

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

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

(f) Equipment - shall mean conductors, materials, fittings, devices, appliances, fixtures, apparatus, motors and the like, used as a part of or in connection with an electrical installation.

(g) Inspector - shall mean the chief building official or any individual who has been appointed by the city as electrical inspector.

(h) Person - shall mean 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.

(i) Special permission - shall mean the written consent of the chief building official or the electrical inspector.

(j) Special ruling - shall mean a written ruling filed in the office of the chief building official or the electrical inspector. (Code 1990)

4-202. ADOPTION OF ELECTRICAL CODE BY REFERENCE. The standard code known as the National Electrical Code, Edition of 2002 (NFPA No. 70-1990), a standard of the National Fire Protection Association, for electrical wiring and apparatus as recommended by the National Fire Protection Association, the same being a standard code for the installation of electrical wiring and apparatus and available in book or pamphlet from the:

National Fire Protection Association
Batterymarch Park
Quincy, MA 02269

is hereby incorporated by reference herein and made a part of this article as authorized and in the manner prescribed by K.S.A. 12-3009: 3012. Three (3) copies shall be marked or stamped "Official Copy as Incorporated by the Code of the City of Ellis," and shall be filed with the city clerk to be open to inspection and available to the public at all reasonable hours of business.

Any person violating any provision of such code shall be punished as provided in section 1-116 of this code. (Ord. 1207, Sec. 1; Code 2005)

4-203. SAME; AMENDMENTS. Article 2301-1 Services, Section F, Service Equipment-Disconnecting Means, on page 70-74 of the National Electric Code, Edition of 2002, adopted herein, is amended to read:

(a) General. Means shall be provided to disconnect all conductors in a building or other structure from the service entrance conductors. Each such disconnecting device shall be permanently marked to identify it as a service disconnecting means and shall be of a type that is suitable for use as service equipment under prevailing conditions. Service equipment installed in hazardous locations shall comply with the requirements of Articles 500 through 517. Outside weatherproof, overcurrent, and service disconnects shall be required on all permanent electric installations, provided, however, that the trades board may grant exceptions for services which exceed four hundred amperes. (Ord. 1207, Sec. 2; Code 2005)

4-204. BUILDING OFFICIAL; AUTHORITY. The city superintendent 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 section 4-104 of this chapter, which shall apply in a like manner to this article. (Code 1990)

4-205. ELECTRICAL INSPECTOR; APPOINTMENT. The city superintendent may assume the responsibilities of or appoint some other person to be and perform the duties of electrical inspector as may be required, subject to the consent and approval of the governing body. (Code 1968, 3-306; Code 1990)

4-206. 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. (Code 1968, 3-306,310; Code 1990)

4-207. SAME; POWERS. The electrical inspector shall have the following powers:

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

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

(c) May cause any work done in violation of this chapter to be discontinued until he or she shall have satisfactory evidence that the work will be done in accordance with the electrical regulations of the city, subject to the right of any installer or owner to appeal to the governing body. (Code 1968, 3-306; Code 1990)

4-208. SAME; RIGHT OF ENTRY. The electrical inspector, or his or her agent, upon proper identification, shall have authority to enter any building, structure or premises at any reasonable hour to perform his or her duties as set out in this chapter.

(Code 1968, 3-306; Code 1990)

4-209. 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. (Code 1990)

4-210. ELECTRICAL PERMIT REQUIRED; APPLICATION; APPROVAL. (a) Except as provided in subsection (b), it shall be unlawful for any person to engage in any electrical construction as defined in section 4-201 within the city without an electrical permit being first obtained therefor from the city superintendent, 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 come under the scope of other agencies. (Code 1968, 3-302,304; Code 1990)

4-211.

SAME; APPLICATION INFORMATION REQUIRED. (a) An electrical permit shall be issued, in writing, upon application to the building inspector or his or her designee, on a form or forms provided for the purpose. This application shall, among other things, disclose the following:

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

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

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

(d) Any permit issued under this section shall be valid and subsisting for a period of not more than six months from the date of issuance unless the permittee shall have commenced, within the period so limited, the electrical construction work authorized by such permit. Electrical construction work commenced, for the purpose of this section, shall mean the beginning of electrical construction work other than the preparation of plans or the letting of an electrical contract. (Code 1990)

- 4-212. 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. (Code 1968, 3-305; Code 1990)
- 4-213. SAME; FEES. The fee for an electrical permit shall be set by resolution. 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. (Code 1990)
- 4-214. 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. (Code 1990)
- 4-215. 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. (Code 1990)
- 4-216. 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. (Code 1968, 3-307; Code 1990)

- 4-217. INSPECTION FEE. An initial inspection fee and an inspection fee for subsequent inspections required, shall be paid before any electrical installation will be approved or a certificate of approval issued. Inspection fees shall be established by resolution. (Code 1990)
- 4-218. 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 may 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. (Code 1990)
- 4-219. 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. (Code 1968, 3-308; Code 1990)
- 4-220. REINSPECTION. The electrical inspector shall periodically reinspect 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. (Code 1968, 3-309; Code 1990)

4-221. 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 10 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 10 days from receiving the petition make a decision in accordance with their findings. (Code 1990)

4-222. 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. (Code 1990)

4-223. ELECTRICIAN OR ELECTRICAL CONTRACTORS DEFINED. (a) A Master Electrician, shall certify at least six years of practical experience in the electrical trade doing the type of work he or she will be required to perform, supervise or direct. Two years satisfactory work in an accredited trade school, or a degree in electrical engineering conferred by an accredited college or university and four years practical experience may be accepted in lieu of the foregoing requirements.

(b) A Journeyman Electrician, shall certify at least four years of practical experience in the electrical trade doing the type of work he or she will be required to perform, supervise or direct. Two years satisfactory work in an accredited trade school, or a degree in electrical engineering conferred by an accredited college or

university and three years practical experience may be accepted in lieu of the foregoing requirements.

(c) An Apprentice Electrician, is any person earning his livelihood as an electrician, but who has not acquired the necessary longevity of experience to be eligible to become a journeyman electrician is classified as an apprentice electrician. Except by special written consent issued by the board of examiners, he or she shall not work unless under the immediate supervision and direction of a licensed journeyman electrician or master electrician properly licensed by the city.

(d) An Electrical Contractors, are those persons, firms or corporations who are licensed and have in their employ master electrician(s) and others who are qualified and equipped to serve the public in the installation, repairing, replacement and maintenance of electrical wiring and the installation of fixtures, appliances, motors, and other apparatus using electrical current. For the purpose of meeting the requirements of this section, a master electrician may act as the master electrician for only one electrical contractor. The holder of an electrical contractor's license shall keep the electrical inspector informed, in writing, as to the personnel holding a master electrician's license in his or her employ.

(e) An Employing Electrician, shall be a master electrician who works at the business of electrical wiring himself or herself, and employs other certified electricians. (Ord. 1202; Code 2005)

4-224.

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 construction, without first having obtained an electrician's or electrical contractor's license issued by the city.

(d) The contractor shall provide to the city clerk proof of passing the ICBO/Experior Exam. (Ord. 1234; Code 2006)

4-225.

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 application shall be reviewed by the chief building official for his or her approval. Upon the chief

building official's approval and the payment of the fees hereinafter provided, the city clerk shall issue such license. (Ord. 1167, Sec. 2)

4-226. SAME; LICENSE FEES; CONDITIONS; RENEWAL; UNLAWFUL ACTS.
(a) Every Electrician, as defined in Section 4-323, shall pay a license fee in the amount of \$50.00. Such fee shall be paid biennially for a two-year period or major fraction thereof for a license issued in an even numbered year. Any license issued during an odd numbered year shall be issued upon payment of one-half the biennial 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 biennially as in the case of an original license on or before the first day of January of the even numbered year for which issued. All licenses shall be valid for two year terms beginning January 1st of an even numbered year and ending December 31st of an odd numbered year. Not less than 12 classroom hours of trade associated continuing education approved by the City of Ellis are required every two years prior to license renewal approval. Continuing education credits in excess of 12 hours will not carry over from one license renewal period to another. Continuing education may be provided by the local governing body, a nationally recognized trade organization, community college, technical school or technical college.

(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. (Ord. 1287; Code 2009)

4-227. INSURANCE. An electrician or electrical contractor shall 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 of Kansas. 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. (Code 1968, 3-1007; Code 1990)

4-228. LICENSE SUSPENSION; REVOCATION; APPEAL; UNLAWFUL ACTS.
(a) The license of any electrician or electrical contractor may be suspended temporarily, for a period of not to exceed 30 days at any one time, by the chief building official upon his or her own motion or upon a complaint of the city electrical inspector. Notice shall be given in writing to such electrician or electrical contractor giving reasonable notice of a time of hearing of the complaint or the matter alleged against such electrician or electrical contractor involving any one or more of the following:

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

- (2) Use of license to obtain an electrical permit for another;
- (3) Failure or neglect to observe conditions of permit authorizing encumbering of streets or sidewalks for safety of public;
- (4) Performance of any electrical construction work without a permit where one is required by law; or
- (5) Willful disregard of any violation of the electrical construction laws, or failure to comply with any lawful order of the city electrical inspector.

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

(c) It shall be unlawful to engage in the occupation or trade of electrician or electrical contractor during the time any license of such electrician or electrical contractor has been suspended or revoked. (Code 1990)

4-229. **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. (Code 1990)

4-230. **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. (Code 1990)

4-231. **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 reinspection authorized herein, or the certificate of approval of any work or equipment authorized herein or by reason of any permit or license granted herein. (Code 1968, 3-311; Code 1990)

4-232. 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. (Code 1990)

ARTICLE 3. PLUMBING AND GAS-FITTING CODE

- 4-301. DEFINITION OF PLUMBING. The term plumbing as used in this article shall be construed to mean the installation of gas or water pipes, fixtures, apparatus and the necessary connections either for supplying gas or water to premises or for the removing of liquid and water-borne wastes from premises in the city, or both such purposes, and shall also denote installed fixtures, drainage and vent systems and gas or water distribution systems as the case may be. (Code 1990)
- 4-302. INTERNATIONAL PLUMBING CODE, MECHANICAL CODE, AND FUEL GAS CODE ADOPTED. (a) For the purpose of establishing the minimum standards for the performance of any work defined as “plumbing” in this chapter, there is adopted the International Plumbing Code, 2003 Edition, as adopted by the Annual Conference of International Association of Plumbing and Mechanical Officials, which is incorporated in this chapter by reference, excepting Appendix A, “Permit Fees.”
- (b) For the purpose of establishing the minimum standards for the performance of any work defined as “mechanical” in this chapter, there is adopted the International Mechanical Code and International Fuel Gas Code, 2003 Editions, as adopted by the Annual Conference of Plumbing and Mechanical Officials, which is incorporated in this chapter by reference, including appendixes, and excluding section 621 of the Fuel Gas Code, “Unvented Room Heaters,” which are not allowed in this jurisdiction, as though set out in full in this chapter, excepting Appendix B of the Mechanical Code, “Permit Fees.” Any person violating any provisions of such code shall be punished as provided in section 1-116 of this code.
(Ord. 1208, Sec 1; Code 2005)
- 4-303. ADDITIONAL PROVISIONS. The following sections of this article are in addition to the provisions of the standard code incorporated by reference in section 4-302. (Code 1990)
- 4-304. BUILDING OFFICIAL; AUTHORITY. The city superintendent 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 section 4-104 of this chapter, which apply in a like manner to this article. (Code 1990)
- 4-305. PLUMBING INSPECTOR; APPOINTMENT. The city superintendent 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. (Code 1990)
- 4-306. 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. (Code 1968, 3-415; Code 1990)

4-307. SAME; POWERS. The plumbing inspector shall have the following powers:

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

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

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

(Code 1968, 3-415; Code 1990)

4-308. SAME; RIGHT OF ENTRY. The plumbing inspector, or his or her agent, upon proper identification, shall have authority to enter any building, structure or premises at any reasonable hour to perform his or her duties as set out in this chapter.

(Code 1968, 3-415; Code 1990)

4-309. 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. (Code 1990)

4-310. 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 section 4-301, in any building in the city without first making application to and receiving a permit therefor from the building inspector. 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. (Code 1990)

4-311.

SAME; APPLICATION INFORMATION REQUIRED. (a) A plumbing permit shall be issued upon an application in writing to the office of city clerk on a form or forms provided for the purpose. This application shall, among other things, disclose the following:

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

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

(c) Upon approval of the completed application and a determination that a permit should be issued, the chief building official or his or her assistant shall issue a permit to the owner or contractor authorizing the plumbing work covered by the application.

(d) Any permit issued under this section shall be valid and subsisting for a period of not more than six months from the date of issuance unless the permittee shall have commenced, within the period so limited, the plumbing work authorized by such permit. Plumbing work commenced for the purpose of this section shall mean the beginning of plumbing work other than the preparation of plans or the letting of a plumbing contract. (Code 1990)

4-312.

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. (Code 1990)

- 4-313. SAME; FEES. The fee for a plumbing permit shall be established by resolution of the governing body. 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. (Code 1990)
- 4-314. 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. (Code 1990)
- 4-315. 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. (Code 1990)
- 4-316. 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. (Code 1990)
- 4-317. INSPECTION FEE. Inspection fees shall be established by resolution of the governing body. Inspection fees shall be paid before any plumbing will be approved or a certificate of approval issued. (Code 1990)

- 4-318. **CERTIFICATE OF APPROVAL.** (a) When the plumbing inspector finds plumbing construction to be in conformity with the provisions of this article, he or she may 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. (Code 1990)
- 4-319. **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. (Code 1990)
- 4-320. **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 10 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 10 days from receiving the petition make a decision in accordance with their findings. (Code 1990)

4-321.

PLUMBER OR PLUMBING CONTRACTOR; DEFINED.

(a) A Master Plumber, shall certify at least five years of practical experience in the plumbing trade doing the type of work he or she will be required to perform, supervise or direct. Two years satisfactory work in an accredited trade school and two years experience may be accepted in lieu of the foregoing requirements.

(b) A Journeyman Plumber, shall certify at least three years of practical experience in the plumbing trade doing the type of work he or she will be required to perform, supervise or direct. One year satisfactory work in an accredited trade and two years practical experience may be accepted in lieu of the foregoing requirements.

(c) An Apprentice Plumber, shall be any person earning his livelihood as a plumber, but who has not acquired the necessary longevity of experience to be eligible to become a journeyman plumber is classified as an apprentice plumber. Except by special written consent issued by the Trades Board, he or she shall not work unless under the immediate supervision and direction of a licensed journeyman plumber or master plumber properly licensed by the city.

(d) Plumbing Contractors, are those persons, firms or corporations who are licensed and have in their employ master plumber(s) and others who are qualified and equipped to serve the public in the installation, repairing, replacement and maintenance of plumbing systems and the installation of fixtures, appliances, motors, and other plumbing apparatus. For the purpose of meeting the requirements of this section, a master plumber may act as the master plumber for only one plumbing contractor. The holder of a plumbing contractor's license shall keep the plumbing inspector informed, in writing, as to the person holding a master plumber's license in his or her employ.

(e) A Lawn Sprinkler and Irrigation System Contractor, shall be any person, firm, partnership or cooperation engaged or hereafter engaging in the installation, repair, and/or maintenance of lawn sprinkler and/or lawn irrigation systems.

(f) An Employing Plumber, shall be a master plumber is one who works at the business of plumbing himself or herself and employs other certified plumbers.

(g) Plumbing Definitions:

(1) "Gas plumbing", for the purposes of this chapter, means the installation, repair, replacement, renewal and relocation of pipes, appliances, fixtures, fittings and other apparatus for distribution and/or consumption of a natural or manufactured gas supplied for illuminating or fuel purposes in or on any premises and shall denote installed gas piping and fixtures as the case may be.

(2) "Plumbing", for the purposes of this chapter, means the installation of pipes, fixtures, and other apparatus or equipment, either for supplying water to premises or removing liquid and water-borne wastes, or both, from such premises and shall denote installed fixtures, drainage and vent systems and may include "gas plumbing" as the case may be.

(h) A Mechanical Heating, Ventilation and Air Conditioning Contractor, are those persons, firms co-partnerships, corporations, associations, or combinations thereof, who undertake or offer to undertake for another, for hire, the planning, laying out, supervising and installing or making additions, alterations and repairs in the installation of mechanical heating, ventilation and air conditioning systems.

(i) A Master Heating, Ventilation and Air Conditioning Mechanic, shall certify at least five years of practical experience, training in the planning, laying out, and supervising the installation and repair of mechanical heating, ventilation and air conditioning systems. Two years satisfactory work in an accredited trade school and three years practical experience may be accepted in lieu of the foregoing requirements.

(j) A Journeyman Heating, Ventilation and Air Conditioning Mechanic, shall certify at least three years of practical experience, training and technical knowledge to install and repair mechanical heating, ventilation and air conditioning systems. One year satisfactory work in an accredited trade school and two years practical experience may be accepted in lieu of the foregoing requirements.

(k) An Apprentice Heating, Ventilation and Air Conditioning Mechanic, shall be any person earning his or her livelihood as a heating, ventilation and air conditioning mechanic, but who has not acquired the necessary longevity or experience to become a journeyman heating, ventilation or air conditioning mechanic, is classified as an apprentice heating, ventilation and air conditioning mechanic. (Ord. 1204; Code 2005)

4-322 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.

4-323. 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 application shall be reviewed by the chief building official for his or her approval. Upon the chief building official's approval and the payment of the fees hereinafter provided, the city clerk shall issue such license. (Ord. 1167, Sec. 3)

4-324. PLUMBER'S OR PLUMBING CONTRACTOR'S LICENSE REQUIRED; PLUMBING PERMITS; UNLAWFUL ACTS. (a) Every Plumbing Contractor, as defined in Section 4-321, shall pay a license fee in the amount of \$50.00. Such

fee shall be paid biennially for a two-year period or major fraction thereof for a license issued in an even numbered year. Any license issued during an odd numbered year shall be issued upon payment of one-half the biennial license fee.

(b) Each such license shall be set forth the kind of plumbing 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 plumbing work or produce the same on demand of any city officer. All licenses shall be renewable biennially as in the case of an original license on or before the first day of January of the even numbered year for which issued. All licenses shall be valid for the two year terms beginning January 1st of an even numbered year and ending December 31st of an odd numbered year. Not less than 12 classroom hours of trade associated continuing education approved by the City of Ellis are required every two years prior to license renewal approval. Continuing education credits in excess of 12 hours will not carry over from one license renewal period to another. Continuing education may be provided by the local governing body, a nationally recognized trade organization, community college, technical school, or technical college.

(c) It shall be unlawful for any person, firm, company, 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.

(d) The contractor shall provide to the city clerk proof of passing the ICBO/Experior Exam. (Ord. 1288; Code 2009)

4-325.

INSURANCE. A plumber or plumbing contractor shall 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 of Kansas. 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. (Code 1968, 3-1007; Code 1990)

4-326.

LICENSE SUSPENSION; REVOCATION; APPEAL; UNLAWFUL ACTS.

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

- (1) Misrepresentation of a material fact by applicant in obtaining a license;
- (2) Use of license to obtain a plumbing permit for another;
- (3) Failure or neglect to observe conditions of a permit authorizing encumbering of streets or sidewalks for safety of public;

(4) Performance of any plumbing work without a permit where one is required by law; or

(5) Willful disregard of any violation of the plumbing laws, or failure to comply with any lawful order of the city plumbing inspector.

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

(c) It shall be unlawful to engage in the occupation or trade of plumber or plumbing contractor during the time any license of such plumber or plumbing contractor has been suspended or revoked. (Code 1968, 3-410:411; Code 1990)

4-327. 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 building inspector 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. (Code 1990)

4-328. 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. (Code 1990)

4-329. 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. (Code 1990)

4-330. 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 reinspection authorized herein, or the certificate of approval of any work or equipment authorized herein or by reason of any permit or license granted herein. (Code 1990)

4-331. 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. (Code 1990)

ARTICLE 4. MOVING BUILDINGS

- 4-401. **BUILDING OFFICIAL; AUTHORITY.** The mayor 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 sections 4-104:109 of this chapter, which apply in a like manner to this article. (Code 1990)
- 4-402. **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 miles per hour or faster, upon, across or over any street, alley or sidewalk in this city without first obtaining a permit therefor. No permit shall be granted to move any building which when loaded shall extend more than 30 feet above the surface of the street to its highest point or wider than the paved or improved surface of any street from curb to curb, over which it is proposed to move such structure or which will destroy or damage any trees in the parking adjacent to such streets except with the approval of the city superintendent and in no case until the mover has obtained the written permission of the owners of property abutting the parking on which any tree shall be so growing as to require trimming or cutting, and file same with the city clerk. (K.S.A. 17-1914; Code 1968, 3-803; Code 1990)
- 4-403. **SAME: APPLICATION FOR PERMIT.** All applications for permits required under the provisions of this article shall be made in writing to the building inspector 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; Code 1968, 3-803; Code 1990)
- 4-404. **SAME; INSURANCE REQUIRED.** A public liability insurance policy issued by an insurance company authorized to do business in the State of Kansas, 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. (Code 1968, 3-809,1005,1007; Code 1990)
- 4-405. **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 \$5.00 to the city clerk; plus the additional cost for the time for any city crews involved in such moving. (Code 1990)
- 4-406. **CONTRACTOR; LICENSE REQUIRED; FEE.** The provisions of sections 4-119:125 of this chapter shall apply in a like manner to this article. (Code 1990)

- 4-407. 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. (Code 1968, 3-807; Code 1990)
- 4-408. 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 subsection (a) 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; Code 1968, 3-804; Code 1990)
- 4-409. 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 workmen 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 section 4-408, shall be liable to the permit holder for damages in an amount not to exceed \$100.00 per day for each day the owner shall fail or refuse to accommodate the permit holder's moving operations. (K.S.A. 17-1917; Code 1968, 3-805; Code 1990)
- 4-410. 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; Code 1968, 3-806; Code 1990)
- 4-411. 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 30 minutes after sunset to 30 minutes before sunrise. (Code 1968, 3-808; Code 1990)

ARTICLE 5. DANGEROUS AND UNFIT STRUCTURES

- 4-501. PURPOSE. The governing body has found that there exist 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; Code 1990)
- 4-502. DEFINITIONS. For the purpose of this article, the following words and terms shall have the following meanings:
 (a) Structure - shall include any building, wall, superstructure or other structure which requires location on the ground, or is attached to something having a location on the ground.
 (b) Public Officer - means the mayor or his or her authorized representative. (K.S.A. 12-1750; Code 1968, 8-1001; Code 1990)
- 4-503. PUBLIC OFFICER; DUTIES. The public 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 public 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;
 (d) Receive petitions as provided in this article. (Code 1968, 8-1006; Code 1990)
- 4-504. PROCEDURE; PETITION. Whenever a petition is filed with the public officer by at least five residents charging that any structure is dangerous, unsafe or unfit for human habitation, or whenever it appears to the public 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. (Code 1968, 8-1002; Code 1990)
- 4-505. SAME; NOTICE. The governing body upon receiving a report as provided in section 4-504 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; Code 1968, 8-1002; Code 1990)

- 4-506. 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; Code 1968, 8-1002; Code 1990)
- 4-507. 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. (Code 2005)
- 4-508. 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. (Code 1990)
- 4-509. 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 public 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 public officer may cause the structure to be removed and demolished. (Code 1968, 8-1002; Code 1990)
- 4-510. 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 public officer may proceed to make the site safe. (Code 1990)
- 4-511. ASSESSMENT OF COSTS. (a) The cost to the city of any repairs, alterations, improvements, vacating, removal or demolition by the public 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 is insufficient to recover the cost, or if there is no salvage, the city clerk shall, at the time of certifying other city taxes, certify the unpaid portion of the costs to the county clerk who shall extend the same on the tax roll of the county. (K.S.A. 12-1755; Code 1968, 8-1002; Code 1990)

4-512. 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 public 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 section 4-611. (K.S.A. 12-1756; Code 1990)

4-513. 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 public officer from carrying out the provisions of the order pending final disposition of the case. (Code 1968, 8-1005; Code 1990)

4-514. 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. 12-1750:1756. (Code 1990)

ARTICLE 6. HEATING AND COOLING STANDARDS

4-601.

NEW ELECTRICAL CONNECTIONS RESTRICTED TO BUILDINGS MEETING ASHRAE STANDARDS. (a) For the purposes of this section, the following rules of construction and definitions shall apply:

- (1) The word city refers to the City of Ellis, Kansas.
- (2) The words shall and will are mandatory.
- (3) ASHRAE refers to the American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc., of New York, New York.
- (4) BTUs means British thermal units.
- (5) EER means energy efficiency ratio, the ratio of net cooling capacity in BTUS per hour to total electric input in watts.

(6) The words heated space shall mean that space within a building which is provided with a positive heat supply having a connected output capacity in excess of 10 BTUs per hour per square foot.

(7) The words new commercial building shall mean any building used to provide, at wholesale or retail, storage, services, supplies, goods or products to the public, other than a building used for the purposes of manufacturing raw material into a finished product, but shall not be construed to apply to any such building whose foundation has been completed by the effective date of this section upon publication in the official paper of the city.

(8) The words new residential dwelling shall mean all new hotels, motels, apartment houses, lodging houses, private homes and other residential dwellings, construction of which commences on or after the effective date of this article, but shall not be construed to apply to mobile homes, or any such new residential dwelling where the foundation has been completed by the effective date of this section. This definition shall apply to buildings of mixed occupancy.

(9) The word owner shall mean a person, as defined herein, holding legal title to the residential dwelling or commercial building.

(10) The word person shall mean any individual, individuals, corporation, partnership, unincorporated association or other business organization, committee, board, trustee, receiver or agent.

(11) The words city utility shall mean the franchisee who is currently providing electric service to the city.

(b) No connections or attachments of service to new residential dwellings or new commercial buildings shall be made by the city electric department until the building inspector has received a certificate of compliance from the owner that the residential dwelling or commercial building meets the standards set forth in subsection (c) of this section. Such certificate of compliance shall include supporting statements from the architect and/or contractor, if either or both such persons were employed in the design and construction of the new residential dwelling or new commercial building. Receipt by the city utility department of such certificate of compliance shall be required for permanent utility service.

(c) Certificate of compliance required by subsection (b) of this section shall certify that the following heating and cooling standards have been met, where applicable:

- (1) New residential dwellings shall be constructed so the total heat loss, based on the ASHRAE Handbook of Fundamentals, does not exceed 35 BTUs per square foot per hour of heated floor area of finished living space, at a design

temperature differential of 80 degrees Fahrenheit with a maximum of one and one-half air changes per hour.

(2) New commercial buildings shall be constructed so heat transmission loss of heated areas, based on the ASHRAE Handbook of Fundamentals, does not exceed 35 BTUs per square foot per hour of floor area based on a design temperature differential of 80 degrees Fahrenheit.

(3) The EER of all air conditioners in new residential dwellings and new commercial buildings on and after the effective date of this section shall be not less than 7.0; the EER of heat pumps in such structures shall not be less than 6.7.

(4) The EER of all air conditioners in new residential dwellings and new commercial buildings on and after November 1, 1979, shall be not less than 8.0; the EER of heat pumps in such structures shall be not less than 7.5.

(5) In the case of a new residential dwelling or new commercial building which is heated and/or cooled in only a portion of the structure, the requirements of this section shall apply only to the heated and/or cooled portion of the structure.

(d) This section is adopted by authority of and under the provision of Article 12, Section 5(b) of the Kansas constitution. (Code 1968, 3-314)

ARTICLE 7. SIGNS

- 4-701. SIGNS DEFINED. For the purpose of this article, the term sign shall be deemed to mean a presentation or representation by words, letter figures, designs, pictures or colors, publicly displayed so as to give notice relative to a person, a business, an article of merchandise or a service. (Code 1968, 3-901)
- 4-702. PERMITS REQUIRED. (a) It shall be unlawful to erect any sign, ground sign or billboard in the city without first obtaining a permit to do so.
(b) No permit will be required for painting of signs on wall surfaces, the repainting of any present sign, ground sign or billboard that is not structurally changed, or signs containing not over 10 square feet in area that do not project over public space and are securely hung.
(c) When requested by the building inspector, a plan shall be submitted showing details of construction, methods of fastening and any other information which the building inspector deems necessary. (Code 1968, 3-902)
- 4-703. LOCATION. (a) No sign shall obstruct a fire escape or be fastened in any manner to a fire escape, nor shall it obstruct any window or means of exit.
(b) No sign shall be fastened to or placed on a parapet wall but shall be set back from such wall, on the roof, a distance of at least three feet.
(c) Unless otherwise specifically provided by ordinance, signs overhanging sidewalks shall have a clearance of 10 feet. Signs overhanging a public driveway shall have a clearance of 18 feet; provided, that signs of four square feet or under area may be hung with a clearance of eight feet over the sidewalks; provided further, that they do not project over 18 inches over public space.
(d) Unless otherwise specifically provided by ordinance, no sign placed at a right or other angle to the wall of the building shall project or extend more than nine feet from the building wall nor closer to the curb line than two feet.
(e) All projections are to be measured from the face of the wall of the building to the point of extreme projection.
(f) Unless otherwise specifically provided by ordinance, signs erected over a canopy, marquee or balcony, resting thereon and securely attached thereto, may extend the full width of such structure if not over 75 feet in area. (Code 1968, 3-904)
- 4-704. OWNER'S RESPONSIBILITY. Any person owning or maintaining signs overhanging any street, sidewalk or public way of the city or who shall have a permit issued by the city to hang, erect or maintain any sign in any such place, public liability insurance in the amount of \$100,000 for the death or injury of one person; in the amount of \$300,000 for the death or injury of two or more persons; and in the amount of \$25,000 for the loss, destruction or injury of any personal property in those cases where the principal may be liable. (Code 1968, 3-1007; Code 1990)
- 4-705. CONSTRUCTION. (a) No sign projecting over public space shall have greater weight than 1,500 pounds.
(b) All signs shall be constructed and hung to withstand a horizontal wind pressure of 30 pounds per square foot.

(c) All faces of enclosed metal signs shall be constructed of 24 gauge or heavier coated metal sheets. These faces shall be rigidly braced by channel stiffeners, at least one lineal foot per each two square feet of sign face area. Channels shall be constructed of 24 gauge or heavier metal and be at least two inches wide with one-half inch flanges, and be fastened to sign faces by spot welding and occasional rivets, in such manner that no separation of channels from faces might occur.

(d) The filler or box portion of the sign body shall be constructed of 22 gauge or heavier metal-coated sheets, and shall be securely fastened to faces by flanging edges and welding or riveting or both, to sign faces in such a manner that no separation may occur.

(e) Sign bodies having an exposed aggregate area of greater than 15 square feet shall have a structural frame within the box and such frames shall be composed of mild steel angle not lighter than one and one-half inches by one and one-half inches by one-eighth inch. Projecting irons from buildings through signs to farthest point from building shall not be lighter than two inches by two inches by three-sixteenth inch and have a minimum of 71 square inches transverse sectional area.

(f) All projecting signs shall have a minimum of five galvanized messenger cable guys, and top supporting guy or guys shall be no lighter than one-fourth inch, unless the building inspector shall rule otherwise in the case of very small light weight signs. Fastenings for such guys on the body of the sign shall be rigidly bolted to the structural frame within the sign, not simply to the sheet metal housing same. When signs exceed 100 pounds in weight or where angle of support is less than 45 degrees, at least one supporting guy shall be fastened to the building by means of one-half inch or heavier bolts entirely through the building wall below the roof line with a sufficient steel plate on inside of the wall to prevent any undue strain on the wall. In lieu of a through-bolt, a structural frame may be placed on the roof of the building. Such roof frames must be securely fastened to the structural members of the roof and must not exert any pressure against the wall.

(g) Transformers in signs shall be securely fastened to the sign body.

(h) Signs weighing under 100 pounds may be hung with lag screws and metal expansion plugs.

(i) All fittings, turnbuckles, chain, cable and wire used in hanging signs shall be galvanized.

(j) Signs shall be guyed top and bottom. Intermediate guys shall be placed on the longer signs as required by the building inspector. (Code 1968, 3-906)

4-706. ELECTRICAL CONNECTIONS. Electrical connections to signs and electrical circuits serving signs shall be made under electrical permits and must be installed in compliance with the provisions of the electrical code of the city. (Code 1968, 3-907)

4-707. CLOTH OR BANNER SIGNS. (a) Unless otherwise provided by ordinance, cloth or muslin signs may be erected, used and displayed for advertising. Such signs shall be fastened to a substantially built wood frame of at least one by two inches sound material and securely attached to the building or structure. Such signs shall be placed flat against the building and not project over public space over six inches.

- (b) Such signs shall not remain up over 30 days from the date of hanging.
- (c) No more than three such signs shall be allowed to be hung on any building in any calendar year.
- (d) Nothing in this section shall prohibit the display of flags or emblems on the fronts of buildings or structures while festivals, conventions or celebrations are being held.
- (e) No sign, flag, emblem or banner of any sort shall be suspended across any street in the city without written permission from the city clerk.
- (f) No cloth or banner sign shall cover any window or opening above the first floor. (Code 1968, 3-908)

4-708. BILLBOARDS AND GROUND SIGNS. (a) Billboards and ground signs shall be constructed to meet the following conditions:

- (1) They shall not obstruct the free use of the streets, alleys or sidewalks.
- (2) They shall be able to stand a pressure of at least 30 pounds per square foot of wind or snow load.
- (3) They shall not exceed 1,000 square feet in area.
- (4) They shall not obstruct the view of railroad crossings or street crossings.
- (5) They shall be not less than three feet above the level of the ground on which they are located.

(b) The name of the person owning or controlling each billboard or signboard shall be placed and maintained on such billboard or signboard so as to be easily read.

(c) The provisions of this article shall apply to billboards hereafter built, rebuilt, reconstructed or now in use. (Code 1968, 3-909)

4-709. PROHIBITED SIGNS. No sign of combustible construction other than cloth or banner signs shall be erected in fire zones. (Code 1968, 3-910)

4-710. MAINTENANCE. (a) Any person occupying any lot or premises with a billboard, ground sign or other advertising device shall be subject to the same duties and responsibilities as the owner of the lot on which the structure is located with respect to keeping the same clean, sanitary, in offensive and free and clear of all weeds and noxious substances in the vicinity of such structure.

(b) All signs shall at all times be kept in good repair and in a safe condition for the public by the owner. (Code 1968, 3-911)

4-711. PENALTIES. Any person violating or failing to comply with any of the provisions of this article shall, upon conviction thereof, be fined in any sum not exceeding \$100.00 or be imprisoned not to exceed 30 days, or be both so fined and imprisoned, and each day that any person shall continue to violate or fail to comply with any of the provisions of this article shall be considered a separate offense.
(Code 1968, 3-912)

ARTICLE 8. EXCAVATIONS

- 4-801. DEFINITIONS. (a) An excavation - means any opening in the surface of a public or private place made in any manner whatsoever, except an opening into a lawful structure below the surface of a public or private place, the top of which is flush with the adjoining surface and so constructed as to permit frequent openings without injury or damage to the public or private place. Excavation shall not include landscaping, gardening, or fences under six feet on a private place. Excavation shall include the making of openings for utility lines, footings, foundations, pools, hot tubs, utility cables, and wells of all types whether on public or private places.
- (b) Parking - means that unpaved area between the street curbs and the sidewalk or street right-of-way.
- (c) Person - means any person, firm, partnership, association, corporation, company or organization of any kind.
- (d) Public or Private Place - means any public or private street, way, driveway, grounds, place, parking, alley, sidewalk, park, square, plaza or any other public or private property within the city limits. (Code 1990)
- 4-802. APPLICABILITY. Work on an excavation made either as a result of obtaining a permit from the city to make such excavation, or as a result of entering into a contract with the city, shall be subject to the provisions of this article except that contracts with the city for the construction or reconstruction of storm sewers and/or sanitary sewers, as well as the complete repaving or resurfacing of an existing paved street, shall be exempt from this provision. (Code 1990)
- 4-803. PERMIT REQUIRED. It is unlawful for any person, except licensed and bonded contractors holding contracts to do construction work for the city, to cut any sidewalk or pavement, or make any excavation in any of the streets, alleys or other public or private grounds for the purpose of laying, repairing or removing any pipes, underground wires or other conduits, or for any other purpose not specifically mentioned herein, unless such person has first obtained a permit from the building official. (Code 1990)
- 4-804. PERSONS ELIGIBLE FOR PERMITS. The following persons shall be eligible to secure permits to cut sidewalks or pavements, and to make excavations in the streets, alleys and other public or private grounds in the city:
- (a) Public Utility Corporations. Any municipally operated utility or any public utility corporation having a franchise to operate in any street, alley or other grounds of the city.
- (b) Plumbers and Drain Layers. Licensed plumbers and master drain layers whose bonds are approved by the city.
- (c) Other Persons; Bond, Etc., Required. Any other person, provided, that such other person shall first file and maintain with the city clerk, a surety bond in the sum of \$2,000.00, as hereinafter provided. Such bond shall be approved by the city attorney as to form. Such provisions of this code and other ordinances of the city relating to and regulating the cutting of sidewalks or pavement and the making of excavations in any of the streets, alleys or other public or private grounds in the city. Such bond shall also be conditioned that the principal will hold

and save the city harmless from any and all damages to persons and property resulting from or growing out of the cutting of any sidewalk or pavement, or the making of any excavations in any of the streets alleys, or other public or private grounds in the city, or the erection and maintenance of barricades, warning signs, etc., such liability on the part of the principal and surety to continue until a release has been received from the city as provided in this article. (Code 1990)

4-805.

APPLICATION FOR PERMIT; FEES, ISSUANCE. (a) Permits required by this article shall be issued to any municipally operated utility or public utility corporations having a franchise to operate in any street, alley or other public or private grounds in the city, upon such municipally operated utility or public utility corporations filing with the building official an application for such permit; provided, that statements based on fees provided for in this section will be rendered upon the first of each month for the amount due the city on all permits issued to such municipally operated utility or public utility corporation prior to the first day of the preceding calendar month, which statements shall be due and payable within 10 days after receipt of statement.

(b) Any other eligible person, other than those expressly excepted in section 4-903, desiring a permit, shall first make application to the building official and shall pay in advance the minimum charge for the following permit fees:

(1) For Cutting Sidewalks

For each square foot cut - \$1.80.

Minimum: One square yard, or each entire section or square of walk, cut; whichever is the larger.

(2) For Cutting Pavement Including Streets, Driveways and Parking Lots

(A) For each square yard or fraction thereof of asphaltic pavement - \$28.

(B) For each square yard or fraction thereof of asphalt mat - \$15.

(C) For each square yard or fraction thereof of brick, concrete, wood block, and all other nonasphaltic pavement - \$19.

(3) For Cutting Curb and Gutter

(A) For each lineal foot or fraction thereof of concrete curb - \$2.50.

(B) For each lineal foot or fraction thereof of concrete gutter - \$3.50.

(4) For Cutting Bar Holes (test holes not exceeding six inches in diameter)

Each hole - \$1.50.

(5) For Sawing Asphalt or Concrete

(A) For each lineal foot or fraction thereof - \$1.50.

(6) For Utility Excavations

(A) For each excavation - \$12.50.

(c) The building official shall bill any balance due above minimum charge.

(d) No excavation shall be permitted within the paved portion of streets except when boring, jacking or the pushing of the conduit is impractical as determined by the city engineer or when an emergency is deemed to exist.

(e) Ten percent additional shall be added to all permits for cutting sidewalk or pavement, or for excavating in the unpaved sidewalk or street areas, for construction or repair of building foundations to cover inspection of the excavation in preparation for backfilling, as provided in this article.

(f) A fee of \$25.00 shall be required for a permit to excavate in any unpaved street, alley, or other public or private place. For the purpose of laying, repairing or removing any main pipes, underground wires or other conduits, one

such permit shall be required for each block or portion of a block of a street, alley or other public or private grounds if the work is done with continuity. For the purpose of connecting, repair or removing service pipes, underground wires or other conduits, or for any other purpose not specifically mentioned herein, one such permit shall be required for each connection unless such connection is made at the time of laying the main.
(Code 1990)

- 4-806. BACKFILLING; GENERALLY; REMOVAL OF SURPLUS MATERIAL. All excavations where sidewalk or pavement has been cut shall either be backfilled with sand which shall be flushed and vibrated into place, or shall be backfilled with excavated material dampened and thoroughly tamped in six-inch layers until its compaction is equal to 100 percent of that of the adjacent undisturbed soil. The sand shall be free of rock, dirt or trash and the excavation shall be filled with sand to within eight inches of the surface of the remainder of the sidewalk pavement. The remainder of the backfill shall be made of the excavated material, securely tamped and left within two inches of the surface in sidewalk cuts or pavement cuts. A two inch temporary asphaltic concrete surface shall be applied, tamped and left flush with the adjacent surfaces. All surplus excavated material shall be removed from the location by the person making the excavation. (Code 1990)
- 4-807. SAME; CONSTRUCTION OR REPAIR OF BUILDING FOUNDATION ADJACENT TO STREETS, ETC. All excavations for the construction or repair of building foundations, where adjacent to any street or alley lines, shall, as soon as practicable, be thoroughly cleaned of all building or debris of any kind, inspected by the building official, then backfilled with sand, free from rock, dirt or trash and flushed and vibrated into place. The building contractor, or the owner where there is no contractor, shall notify the building official at least eight hours in advance of the time he or she expects to have any such excavation ready for inspection and backfill, Friday excluded and excluding Saturday and Sunday or any legal holiday or double holiday. (Code 1990)
- 4-808. SAME; EXCAVATIONS WITHIN FOUR FEET OF EXISTING PAVEMENT, ETC. Any excavation in any street or alley which is less than four feet from any existing pavement, curb or sidewalk, or where such pavement, curb or sidewalk has been ordered in by action of the city but not yet constructed, shall be backfilled with the excavated material, dampened and thoroughly tamped in six inch layers until its compaction is equal to 100 percent of that of the adjacent undisturbed soil, or it shall be backfilled with sand which shall be flushed and vibrated into place to within six inches of the surface of the remainder of the sidewalk or pavement and the rest of the backfill shall be made of excavated material securely tamped and left flush with the surface. In any sodded area, the sod shall be carefully removed, then reset as the work is completed. (Code 1990)
- 4-809. SAME; EXTRA EXCAVATION OF PAVEMENT BEYOND EDGES OF DIRT FOUNDATION. The pavement portion of all street pavement cuts shall be excavated for a minimum distance of one foot beyond the edges of the dirt excavation, except that when one side of the pavement cut touches a gutter, the gutter pavement shall not be excavated. Such excavation of pavement shall be

done by use of a pavement saw and only after the dirt excavation has been backfilled. The dimensions of a pavement cut as given on the permit shall include the extra excavation of pavement beyond the edges of the dirt excavation. All material and workmanship shall conform with specifications on file in the office of the city clerk. (Code 1990)

4-810. SAME; WITH EXCAVATED MATERIAL. All excavations in any used or traveled portion of any unimproved street or alley, except as provided in the preceding section, may be backfilled with the excavated material; provided, that it shall be compacted by mechanical tamper in six inch layers and all surplus material shall be trimmed and removed from the line of the ditch. (Code 1990)

4-811. SAME; DUTY OF PERSONS MAKING EXCAVATION. It shall be the duty of any person making an excavation in any of the unimproved streets, alleys or other public or private grounds in the city to backfill and maintain all trenches or ditches in a safe condition for the traveling public until the excavated material has reached final settlement. (Code 1990)

4-812. WORK TO CONTINUE WITHOUT INTERRUPTION WHERE EXCAVATION MADE ON EXPRESSWAYS, FREEWAYS, ARTERIAL STREETS. Any public utility, company, contractor, public agency, plumber or other person having a project which necessitates making an excavation in a paved street, which is classified as an expressway, freeway or arterial street, shall work continuously and diligently without interruption and without regard for regular hours of work on the project until the completion of the same, unless other arrangements are approved by the chief of police before commencement of the project. (Code 1990)

4-813. LIABILITY OF PERMITTEE FOR NEGLIGENT ACTS, ETC.; CITY TO BE SAVED HARMLESS. Any person making excavations in any of the streets, alleys or other public or private grounds in the city shall at all times be liable to the city for damages arising by reason of any neglect or carelessness in any respect concerning the excavation prior to the time the cut is released to and accepted by the city for replacement and repair as provided for in this article, and shall hold the city harmless from all suits, claims or judgments for damages growing out of any negligent act of commission or omission on the part of any person in making street cuts, excavations, erection of barricades, lights or other work under this article. (Code 1990)

4-814. REPLACEMENT OF CUTS; NOTICE TO THE CITY; LIABILITY AFTER NOTICE. (a) Any person, when desiring to relapse to the city for replacement any cut, sidewalk, curb, gutter or pavement, shall first notify the building official in writing, of such intent, but shall be responsible for any and all damages caused by the cut and shall be responsible for the maintenance of traffic control for the protection of the traveling public for a period of 24 hours after 8:00 a.m. of the next working day for city employees following such notice; provided, that when a notice is released to the city on Friday, the excavation shall be maintained through Sunday or any legal holiday or double holiday plus a period of 24 hours after 8:00 a.m. of the next working day for city employees following such holiday or double holiday.

(b) If, during the period above provided after the notice of release is given for the replacement of a sidewalk, curb, gutter or pavement, it is found that the backfill has not been made properly, then the person making the excavation shall, upon notice from the building official, correct defect at once, notify the building official in writing of such correction, and after notification, shall be responsible for any and all damages caused by the cut and shall be responsible for the maintenance of traffic control for the protection of the traveling public for an additional period of the same length of time as outlined in the preceding section. (Code 1990)

4-815. SAME; WORK TO BE DONE BY THE CITY; EXCEPTION. All pavement, curb, gutter and sidewalk cuts, except as provided in section 4-816, shall be replaced by the city. The person making the cuts shall not be liable for the cost of replacing the same, except in the form of permit fees; provided, that where such permit fees are paid in advance, if the area covered by the permit fee is less than the area actually embraced in the cut, an additional fee to cover such difference shall be immediately due and payable; provided further, that where the pavement or sidewalk is cut by any public utility corporation for the purpose of constructing the roof of the manholes or vault, then the corporation may, at their own expense, and in accordance with city specifications, replace the pavement or sidewalk; and the permit fee in its entirety, or such portion thereof which embraces the manhole or vault roof, less an inspection fee of \$5.00 will be refunded. (Code 1990)

4-816. CONTRACTING WITH PAVING CONTRACTOR TO DO WORK. (a) In lieu of the procedure described in the preceding section for the replacement of all pavement, curb, gutter and sidewalk cuts, the person making the cuts may, with the approval of the building official contract with a paving contractor for replacement of such cuts. When, in the opinion of the building official, inspection cannot be furnished by the building official, the replacement will be under the inspection of the city engineer, and all material and workmanship will conform with specifications on file in the office of the city engineer.

(b) The person making the cuts shall be liable for cost of repair of such cuts and for maintenance of traffic control. The person making the cut shall also be liable for a period of 10 years for the maintenance of the repair, including its complete removal and replacement if the condition of the repair is such as to constitute a threat to the integrity of the street surface.

(c) The expense of the inspection by the building official or city engineer shall be borne by the person making the cuts. The permit fee under such circumstances shall be \$10.00 for each inspection for each continuous cut. (Code 1990)

4-817. DISPOSITION OF MONEYS COLLECTED UNDER ORDINANCE. This money collected as permit fees under the provisions of this article shall be at once transmitted to the city treasurer, and the permit shall serve as a receipt. All sums collected under the provisions of this article shall be credited to the fund providing for maintenance or service expenditures and all expenses of the city in replacing sidewalk or pavement cuts under the provisions of this article shall be charged to the funds providing for the expenditure. (Code 1990)

4-818. RIGHT OF CITY TO CIVIL ACTION TO RECOVER PERMIT FEES. The city may recover in a civil action in any court of competent jurisdiction, the amount of the permit fees imposed. No property of such debtor shall be exempt from forced sale under any process of law for such indebtedness, except such exemptions as allowed by the constitution and the laws of this state. (Code 1990)

4-819. PENALTY. In the event that any person shall violate this article by failing to obtain a permit, the city may charge the person a 100 percent penalty, as determined by the building official, in addition to collecting the permit fee. The penalty shall be a percent of the required permit fee and shall be within the discretion of the building official. (Code 1990)

ARTICLE 9. BUILDING TRADES BOARD

- 4-901. CITY OF ELLIS TRADES BOARD; ESTABLISHED. There is hereby created a trades board consisting of seven members whose appointments shall be made by the mayor with the approval of the city council, to advise the governing body concerning the qualifications of all the persons who have applied for a city license under this chapter. The trades board shall also have the power to hear and decide appeals of orders, decisions, or other determinations made by an inspector of this chapter, relative to the application and interpretation of the building, electrical, and plumbing codes adopted in this chapter. The trades board shall adopt rules of procedure for conducting appeals of these orders or decisions and shall render all decisions and findings in writing to the appealing party, with a duplicate copy to the inspector whose order, decision, or determination is being appeal from. Appeals to the board shall be processed in accordance with the provisions contained within the respective codes. Copies of all rules and regulations adopted by the board shall be delivered to the building official, who shall make them freely accessible to the public.
(Ord. 1116, Sec. 1)
- 4-902. SAME; MEMBERSHIP; TERM LIMITS. (a) The trades board shall consist of the city superintendent; one general, building or residential contractor licensed in the city; one plumber or heating and air conditioner professional licensed in the city; one electrician licensed in the city; one person employed by the utility company which supplies gas and electricity to the city; and two members shall be appointed from the city at large. The chief building inspector shall be an ex-officio, non-voting member of the trades board. The chief building inspector or his or her designee shall be secretary of the board and shall keep the minutes of the board.
(b) The members of the board shall be appointed for two year terms.
(Ord. 1116, Secs. 2:3)
- 4-903. MEETINGS. (a) It shall be the duty of the board of examiners, under such rules and regulations as they prescribe, to hold meetings at least once each quarter of the calendar year, or upon the request of the governing body, for the purpose of passing upon the qualifications of parties desiring contractor's licenses and for the purpose of reviewing codes and ordinances adopted pertaining to the trades provided herein.
(b) The board shall establish minimum practical experience and degree of proficiency required for obtaining a license or certification and submits the same to the City Council for approval. Written examinations for all classes of certification and/or licenses referred to elsewhere in this section shall be standard examinations for the determination of competency based upon nationally recognized codes and standards, as prescribed under K.S.A. 12-1556, et seq., as amended prepared and published by: Block/Experior or the International Building Code Council.
(c) All meetings of the trades board shall be open to the public.
(Ord. 1201, Sec. 1; Code 2005)

ARTICLE 10. FENCES

- 4-1001. DEFINITIONS. (a) Fence. - A vertical, free standing structure barrier or enclosure, constructed of metal, masonry, composition, wood, any combination thereof or other material resting on or partially buried in the ground and rising vertically above ground level, and used for confinement, screening, partition purposes or landscaping.
- (b) Type of Fences. - For the purpose of this article there are four types of fences which have the meaning respectively ascribed to them as follows:
- (1) Open Fence - A fence in which openings between the materials of which the fence is constructed represents no more than 40% of the total surface of the fence when viewed perpendicular to the face of the fence.
- (2) Solid Fence - A fence that is impervious to light and air and constructed so that there are no openings in the fence from the top to the bottom of the fence material.
- (3) Visually Solid Fence - A fence that is so constructed which is not a solid fence in that it is not totally impervious to light and air but when the fence is viewed from a position perpendicular to the face of the fence the openings are not visible.
- (4) Decorative Fence - Installed as part of landscape improvements without gates and no more than four feet in height. Not designed as a barrier or to enclose, or to keep in or out, as is the common intent and purpose of a fence. (Ord. 1059, Secs. 1:2)
- 4-1002. PERMIT REQUIRED. (a) The applicant for a fence permit shall be furnished with a copy of the fence regulations and applicant shall classify the fence proposed to be constructed by the types listed above. Such fence permit is subject to the applicable regulations and restrictions for the type of fence specified.
- (b) It shall be unlawful for any person to construct or substantially replace any fence within the city, unless a permit to do so is first obtained from the building inspector. The owner of the property, or his or her duly authorized agent or contractor shall present a written application for such permit, on forms furnished by the city, to the building inspector, in which application there shall be set out the legal description of the property, a plot plan showing the location of the fence in relation to property lines, the name of the owner, the name of the agent or contractor, if any, and the plans and specifications of the fence proposed to be constructed. Such fence shall be constructed only on property described in the application presented to the building inspector.
- (c) The fee for such permit shall be \$5.00. (Ord. 1059, Sec. 3)
- 4-1003. RESTRICTIONS; GENERALLY. (a) Fences can be erected on property lines, but no part of such fence shall be constructed on the adjoining property.
- (b) No fence shall be constructed which will constitute a sight hazard or a traffic hazard or be of such design as to be hazardous or dangerous to persons or animals.
- (c) No fence shall be permitted within the sight distance triangle established for street intersections. For the purpose of this article the prohibited fence area (sight distance triangle) is defined as the triangle shaped property at the corner of the street intersection. Two sides of the triangle shall be 20 feet measured from the corner of the lot adjoining the other two lines. In the event the fence is

adjacent to an alleyway, the two sides of the triangle shall be 15 feet from the alley curb point along the alleyway and the abutting street with the third line to create the site triangle.

(d) Barbed wire fences, sharp pointed fences, electrically charged fences, or fences constructed of any materials which are liable to snag, tear, cut or otherwise injure anyone coming into contact therewith shall not be permitted. Except that barbed wire or electrically charged fences for agricultural purposes are permitted in areas zoned for agricultural use. Barbed wire fences may be used at the top of the fences in an industrial zoning district provided the same are placed inside the property line and that the barbed wire is at least six feet above the ground.

(e) No fence shall be erected within any easement or right-of-way, except by prior written approval of those agencies having interest in such easement. (Ord. 1255, Sec. 1; Ord. 1059, Secs. 4:7, 14; Code 2007)

4-1004. SAME; OPEN FENCES. (a) Open fences and decorative fences may be erected within the front yard setback but shall not exceed four feet in height. At other locations along property lines such fences shall not exceed six feet in height.

(b) Open fences enclosing tennis courts, basketball courts, badminton courts, volleyball courts, handball courts, and other outdoor athletic courts, may be erected to a height not exceeding 10 feet, provided, such fences shall separate the court from the rest of the property and shall enclose an area no larger than the court itself and surrounding improved playing surface.

(c) Open fences enclosing elementary schools, high schools, golf courses, churches, country clubs, community centers, hospitals, and similar uses, or land used by any department of the city, county, state or federal government, may be erected to a height exceeding six feet, when necessary for the safety or restraint of the occupants thereof, or when necessary for the security of the premises within. (Ord. 1059, Secs. 8:10)

4-1005. SAME; SOLID FENCES. (a) Solid fences and visually solid fences where permitted shall not exceed six feet in height.

(b) No solid fence or visually solid fence shall be constructed closer to the street in the front yard than the front setback line established for the district in which such fence is to be erected. (Ord. 1059, Sec. 11)

4-1006. NONCONFORMING FENCES; CONTINUATION. Nonconforming fences which may be continued:

(a) The following lawful nonconforming fences may be continued:

(1) A fence which existed prior to the effective date of Ordinance No. 1059.

(2) A fence existing at the time of an annexation.

(3) A fence existing at the time an amendment is made to the zoning ordinance which changes such land to the more restricted district.

(b) The lawful use of a fence located upon any land, except as provided in subsection (c) below, may be continued although such fence does not conform with the provisions of this article. Such fence may be continued if no structural alterations are made except those required by law or ordinances. The foregoing provisions shall also apply to any fences which may be made nonconforming by any subsequent amendment or change of this article.

(c) A nonconforming fence, which in the opinion of the building inspector, has been damaged to the extent of more than 50% of its structural value by fire, explosion, act of God, or the public enemy shall not be restored, except in accordance with the provisions of this article. (Ord. 1059, Sec. 12)

4-1007. MAINTENANCE. Fences in all districts of the city shall be maintained in good repair and shall be kept vertical, uniform and structurally sound, and all repairs shall blend in with the fence and be compatible therewith in color and material. Fences constructed of wood or metal shall be uniformly painted or stained or otherwise treated or sealed to prevent weathering or deterioration. (Ord. 1059, Sec. 13)

4-1008. PROTECTIVE FENCES AND WALLS DURING CONSTRUCTION WORK. Nothing in this article shall be construed to prevent any contractor or owner engaged in construction work for which a building permit has been issued, or a public contract let, from constructing and maintaining such temporary fences and walls as are authorized under the building code of the city. (Ord. 1059, Sec. 15)

4-1009. FENCE HEIGHT; MEASUREMENT. The height of all fences shall be measured from the natural grade of the underlying property. (Ord. 1059, Sec. 16)

4-1010. STANDARDS. All fences shall be constructed in conformance with the standards of the city building codes and the requirements, restrictions and limitations of the city district zoning and subdivision regulations. (Ord. 1059, Sec. 17)

4-1011. APPEALS. Appeals from the decisions of the building inspector shall be taken to the board of zoning appeals. (Ord. 1059, Sec. 19)

4-1012. ACTS PROHIBITED. It shall be unlawful to construct, repair or maintain a fence in violation of the provisions of this article. (Ord. 1059, Sec. 20)

4-1013. VARIANCES. A variance as to the height or type or location of a fence may be authorized by the board of zoning appeals where the granting of the variance will alleviate a clearly demonstrable hardship on the property owner or is necessary for the reasonable development or use of the property and is in harmony with the intended spirit and purpose of the zoning ordinance. Consideration shall be given to the effect, if any, of the variance on the use, enjoyment, and value of the surrounding property. (Ord. 1059, Sec. 21)

ARTICLE 11. SUBTERRANEAN TERMITE CONTROL

- 4-1101. STATEMENT OF POLICY. The governing body of the city hereby declares it to be the public policy of the city to eliminate infestation of subterranean termites and to minimize the destruction of real property caused by subterranean termites. (Ord. 1120, Sec. 1)
- 4-1102. DEFINITIONS. For the purpose of this article the following terms, words, and their derivations shall apply:
- (a) Person - Any individual, firm, partnership, or corporation.
 - (b) Pest Control Operator - Any person who advertises, offers for sale, sells, or performs services consisting of the use or application of any fungicide, fumigant, rodenticide, herbicide or repellent for the purpose of controlling any pest.
 - (c) Post-Treatment - A method of treatment of subterranean termites after the construction of a structure which creates a chemical barrier between all structural members, including footings, foundations, floor slabs, porch floors, entrance platforms and the soil which they come in contact with.
 - (d) Pre-Treatment - A method of treatment for subterranean termites during the construction of a structure which creates a chemical barrier between all structural members, including footings, foundations, floorslabs, porch floors, entrance platforms and the soil which they come in contact with.
 - (e) Structure - Anything constructed which requires a permanent location on the ground or attachment to something having a permanent location on the ground but not including fences or public items such as utility poles, street light fixtures and street signs.
 - (f) Structural Addition - Any addition made to the primary structure and attached to the primary structure. (Ord. 1120, Sec. 2)
- 4-1103. PRE-TREATMENT REQUIRED; EXCEPTION FOR STRUCTURAL ADDITION.
Pre-treatment shall be required for all new structures; however, structural additions made to any existing structures which have not been pre-treated or post-treated for subterranean termites need not be pre-treated. (Ord. 1120, Sec. 3)
- 4-1104. CHEMICAL APPLICATION REQUIRED TO COMPLY WITH MANUFACTURER'S SPECIFICATIONS. All chemical applications for the control of subterranean termites shall be in accordance with chemical manufacturer specifications. In no case shall a chemical be used which is not approved by the Environmental Protection Agency of the United States for the control of subterranean termites. (Ord. 1120, Sec. 4)
- 4-1105. CERTIFICATION OF PRE-TREATMENT. Any person who performs pre-treatment for subterranean termites shall provide the city building inspector with certification of pre-treatment. (Ord. 1120, Sec. 5)
- 4-1106. LICENSE REQUIRED FOR THE PERFORMANCE OF PRE-TREATMENT SERVICES. Only those people who are licensed as pest control operators under the laws of the State of Kansas, specifically, K.S.A. 2-2401, shall be permitted to perform pre-treatment services. (Ord. 1120, Sec. 6)

4-1107. CITY TRADES BOARD RESPONSIBLE FOR RULES AND REGULATION.
The trades board of the city may make and promulgate the necessary rules and regulations to obtain conformity with the provisions of this article.
(Ord. 1120, Sec. 9)

CHAPTER V. BUSINESS REGULATIONS

- Article 1. Taxicabs
- Article 2. Television and Radio Towers and Antennas
- Article 3. Oil and Gas Drilling
- Article 4. Pawnbrokers and Secondhand Dealers
- Article 5. Tree Trimming
- Article 6. Private Water Well Drilling

ARTICLE 1. TAXICABS

- 5-101. **ACTS UNLAWFUL.** It shall be unlawful for any person either directly or indirectly, in the city to own maintain or operate a taxicab business or any business wherein persons are transported by motor vehicles from one place to another within the city and for which transportation a charge is made, without first having obtained a license from the city clerk of the city, to engage in such occupation or business and without first having paid to the city, a license fee or tax herein set out.
(Code 1968, 4-701)
- 5-102. **LICENSE TAX LEVIED.** There is hereby levied upon every person engaged in the business or occupation described in section 5-401 of this article, and upon every motor vehicle used for the purpose therein mentioned a license tax as follows:
For each motor vehicle used as a taxicab to transport persons within the city and upon and over the streets of the city, the sum of \$10.00 per annum payable in advance. (Code 1968, 4-702)
- 5-103. **PAYMENT AND APPROVAL OF LICENSES.** The license tax herein provided shall be payable immediately upon taking effect of this article, and each such vehicle then in operation or that may be thereafter place in operation within the city shall be subject to such tax annually in advance. The license shall be approved by the city's governing body. (Code 1968, 4-703)
- 5-104. **SEPARATE LICENSES FOR EACH VEHICLE; REVOCATION.** A separate license shall be issued for each vehicle, and the license shall not be transferable to any other licensee. Any license issued as herein set out may be revoked by the governing body of the city for violation of any of the ordinances of the city including this article. (Code 1968, 4-704)
- 5-105. **INSURANCE POLICY FOR TAXICABS.** Before any license for a taxicab or vehicle carrying passengers for hire within the corporate limits of the city shall be issued under the provisions of this article, the owner or operator thereof shall file with the city clerk an insurance policy approved by the governing body of the city, providing insurance coverage for each and every taxicab or vehicle carrying

passengers for hire, owned, operated or leased by such person with a liability coverage of not less than \$10,000 for injury or death to any one person and \$20,000 for the injury or death of any number of persons in any one accident, and with a coverage of at least \$5,000 for property damage in any one accident and such insurance coverage shall be effective whether the taxicab or vehicle is, at the time of the accident, being driven by the owner, his or her agent, employee, lessee or licensee; such insurance policy shall contain all of the conditions required by the laws of the State of Kansas, and by the insurance commissioner of the State of Kansas. (Code 1968, 4-705)

ARTICLE 2. TELEVISION AND RADIO TOWERS AND ANTENNAS

- 5-201. PERMITS FOR ERECTION OF RADIO AND TELEVISION TOWERS AND ANTENNAS. No person, corporation or company shall erect or cause to be erected or re-erected within the limits of the city any radio or television tower or antenna, without first before proceeding with the erection of any radio or television tower which would extend more than 10 feet above the roof of the building upon which it is located or 25 feet above ground level where it is to be supported on the earth, obtaining a permit for such construction or erection from the city inspector. All such antennas, towers or antenna supports hereafter erected shall comply with and be erected in accordance with the provisions of this article. (Code 1968, 4-801)
- 5-202. APPLICATION FOR PERMIT AND PERMIT FEES. Before a permit is issued by the city inspector, the applicant therefor shall sign an application in writing which shall show the proposed location, size, nature and detail of construction of such antenna and tower, and any other information which the city inspector may require in connection therewith. If the antenna and tower to be erected as shown by such application, conforms with the provisions of this article, the city inspector shall, upon the payment of the fee of \$10.00 therefor, issue such permit. All such fees collected by the city inspector shall be paid by him or her into the city treasury or the city clerk between the 1st and 10th of the month following their collection, together with a report to the city clerk showing from whom and for what purpose such fees were collected. (Code 1968, 4-802; Code 1990)
- 5-203. CONSTRUCTION OF TELEVISION AND RADIO TOWERS AND ANTENNAS.
All television and radio towers hereafter erected on the roof of a building within the city limit of the city, shall not exceed a height of 70 feet from earth ground level to the highest point of the antenna erected thereon, except, on a building having four or more stories in height, the highest point of the antenna shall not be greater than 25 feet above the roof which supports such tower and antenna. The antenna shall not be closer to a 2,300 volt or more power line than the height in feet of the antenna from its base or closer than three feet from a secondary power line. All roof towers shall be guyed in compliance with the provisions for guying television and radio towers in this article, and shall be supported on the roof by suitable frame work to distribute the tower load structurally safe for the roof. No such tower shall be erected on a roof except where the roof be designed or reinforced to safely support the imposed load of the tower and the thrust of the guy wires. Except self-supporting towers, all such towers shall be guyed with not less than three cable guys for each 35 feet or fraction thereof of the height from its support, and all such towers shall be designed to safely resist a wind velocity of 100 miles per hour. All television and radio towers shall be grounded to the earth through a conductor having a current carrying capacity equal or greater than No. 8 copper wire having a ground resistance at all times not greater than 25 ohms, and the lead-in to the receiver, if not bonded to the metal tower, shall provide lightning arresters approved for such usage, outside of the building near the entrance to the wall, through a conductor as herein provided for the tower, having a ground resistance of not more than 25 ohms. In no case shall an antenna be installed

nearer to the street or sidewalk than the height of the antenna plus 10 feet unless approved by the city inspector, and no wires, cables or guy wires shall cross or extend over any part of any street or sidewalk. Whenever it is necessary to install antenna near power lines or where damage would be caused by its falling, a separate safety wire must be attached to cross arm of the antenna, and secured in a direction away from the hazard. (Code 1968, 4-803)

5-204. CODE. The installation of all television and radio wiring or conductors shall be made in accordance with the 1987 issue of the National Electrical Code of the National Board of Fire Underwriters. (Code 1968, 6-804; Code 1990)

5-205. RADIO AND TELEVISION TOWERS, INSPECTION AND APPROVAL. The installation of such facilities shall be completed within 60 days following the issuance of a permit therefor. Upon completion of the installation the permit holder shall immediately report the fact to the city inspector. Thereupon the installation shall be finally inspected by the city inspector. (Code 1968, 4-805)

5-206. ALL RADIO OR TELEVISION TOWERS SUBJECT TO INSPECTION, UNSAFE TOWERS REMOVED. All radio or television towers now or hereafter erected shall be at all times subject to the inspection of the city inspector or whenever any complaint has been made to him or her or whenever he or she deems such inspection necessary. If the inspector at any time finds such tower insecurely anchored or in any manner unsafe or in such condition that it or any support or part thereof is liable to fall or break, he or she shall have authority to either order the same to be repaired or entirely removed, whichever in his or her opinion is necessary to make the tower safe and secure from falling. Any person whether the owner of the tower or premises on which it is erected, or in charge of such premises as the occupant thereof, agent, representative, officer or member of any firm or corporation, owning such tower or in charge thereof, who refuses to comply with such order shall be deemed guilty of a violation of this article. (Code 1968, 4-806)

5-207. CERTIFICATE OF APPROVAL; ISSUANCE. If the installation complies with the provisions of this article, then the city inspector shall issue a certificate of approval. If the installation does not comply with the requisites of the application for a permit and this article, then the deficiency shall be corrected forthwith or the installation shall be wholly removed. (Code 1968, 4-807)

ARTICLE 3. OIL AND GAS DRILLING

- 5-301. LICENSE REQUIRED, FEE. It shall be unlawful for any person to drill or commence operations for the drilling of a well for oil and gas purposes at any place within the city limits of the city without first having obtained from the governing body of the city, a license or permit for the commencement of such operations, and for the drilling of such well. The applicant for such permit, shall, at the time of making application therefor, deposit with the city clerk a fee of \$500.00 and a valid assignment of a 1/32nd overriding royalty interest in and to the leased premises, and in the event such permit is granted, the fee shall be retained by the city, but if such permit is denied, the fee shall be returned to the applicant. (Code 1968, 4-901)
- 5-302. EVIDENCE TO BE PRESENTED BY LICENSEE. No such permit shall be granted by the governing body until the applicant therefor shall have submitted satisfactory evidence as follows:
- (a) The applicant has a valid oil and gas lease or leases signed by the person or persons owning at least 51 percent of the territory in the area attributable to or which might be attributed to the location which it proposes to develop. The lease or leases shall contain a provision, or shall be accompanied by an agreement in writing, which stipulates, that all mineral rights within each drilling unit shall be pooled. This pooling shall include all interests arising from leases or from production in each drilling unit. It shall provide that all revenue from minerals produced be distributed among the owners and lessees of the minerals in accordance with the number of square feet owned by each property owner and lessee in the area or territory, none of whom may be excluded. The pooling of mineral rights in this manner shall be in all drilling units in which there is no production prior to the effective date of this article.
 - (b) An agreement with the lessors and with the lessee or lessees giving to the city, the option to purchase all natural gas produced from the leasehold estate.
 - (c) A map or plat of the area covered by the oil and gas lease showing the proposed location of each well, together with the written consent of the owner of the land on which the well is proposed to be located, consenting to the drilling of the well on such land, which map or plat shall also show the location of all residences, buildings and other structure, including water wells, in the immediate vicinity of such proposed location.
 - (d) The applicant must agree to provide protection to all persons who might be affected with such drilling operations, including the handling of slush, drilling mud, sediments, salt water and other material produced in connection with drilling such well. All pits receiving oil, salt water or refuse accumulated during drilling operations, shall be of steel construction. Any fluid remaining in such pits shall be removed immediately upon completion of drilling operations.
 - (e) The applicant shall agree that no crude oil shall be stored within the city limits unless agreed to in writing by all parties involved including the applicant, the property owner, the city, and the owners of existing property located within 300 feet of the storage site.
 - (f) The applicant shall agree that, in the event the well is nonproductive, all tools, equipment and machinery used in connection with the drilling thereof shall

be removed within 60 days after completion thereof, and the premises restored to their original condition.

(g) Any tank or tank battery for storage of oil within the city shall be protected by dikes of sufficient height to prevent oil from escaping in the event of the leaking or bursting of the tanks and fully equipped with lightning protection devices, all subject to the approval of the city superintendent.

(h) The applicant shall submit a proposed agreement authorizing the construction of an oil pipeline along city streets. The agreement application form shall be approved by the governing body of the city and located in the city clerk's office. The form shall stipulate all pipeline construction requirements as approved by the governing body of the city. (Code 1968, 4-902)

5-303. BOND REQUIRED. No person shall drill or operate any oil or gas well in or near a populated area or an area occupied by buildings and other structures, until he or she has deposited with the city a good and sufficient bond in the amount of \$25,000, conditioned that the applicant will comply with the provisions of this article.

(Code 1968, 4-903)

5-304. INSURANCE OF OPERATOR REQUIRED. No such permit shall be granted by the governing body and no oil or gas well shall be drilled or operated within the city until the operator shall have filed with the city clerk of the city a certification of insurance insuring the operator against bodily injury to persons in an amount not less than \$100,000 for each person and \$300,000 for each accident and insuring the operator against damages to property including city utility lines in an amount not less than \$50,000 for each accident and further insuring the operator against bodily injury from motor vehicle and trucking operations in an amount not less than \$100,000 for each person and \$300,000 for each accident and against property damage including damage to city streets, alleys and utility lines by reason of motor vehicle and trucking operations in an amount not less than \$50,000 for each accident or incident. Evidence of such insurance shall be kept on file with the city clerk of the city continuously so long as any such well or wells are being drilled or operated within the city. (Code 1968, 4-904)

5-305. LOCATION OF DRILLING SITE. (a) Acreage Required; Variations. All oil and gas wells hereafter commenced or drilled within the city limits of the city shall be drilled as nearly as practicable in the center of a 10-acre square geographical location; provided, that the governing body of the city, at the time of the granting of the license may permit such variations as may be deemed necessary in the amount of acreage required and the location of the drill site depending upon geographical factors, upon the location of houses and other buildings, and the area available which might be attributed to such proposed well.

(b) Determination by City. The governing body of the city may from time to time and shall upon the application of any interested person, make a determination of the territory which is to be included in each drilling location within the limits of the city, which the determination shall follow the standard 10-acre geographical locations as nearly as practicable, but in making such determination the governing body shall not be required to split or divide any platted lot or lots; and the area or

territory to be attributed to the well or wells under a particular lease or leases shall be the territory described in the drilling permit issued therefor. (Code 1968, 4-905)

- 5-306. FENCING OF DRILLING RIG; PROTECTION FROM BLOWING OIL. The entire drilling rig for any oil or gas well, together with its equipment, shall be fenced and adequate measures shall be taken to protect persons and property from blowing oil. (Code 1968, 4-906)
- 5-307. PUMPING UNITS; RETAINING WALL OR CONCRETE CURB. A retaining wall constructed of at least 4 ½ inch pipe shall be placed around the pumping unit of an oil or gas well or, in lieu thereof, a reinforced concrete curb may be erected which shall be approved by the city superintendent and the area therein shall be filled with material of a highly absorbent quality such as fill sand. (Code 1968, 4-907)
- 5-308. SAME; FENCE. Pumping units of oil or gas wells shall be surrounded or enclosed with a six-foot chain link fence, and on top of such fence there shall be a protruding extension of three barbed wires at a 45 degree angle to the outside, and the construction and erection of such fence shall be subject to such plans and specifications as may be approved by the city superintendent. (Code 1968, 5-908)
- 5-309. SAME; POWER. All pumping units at an oil or gas well must be electrically driven with power belt shield. (Code 1968, 4-909)
- 5-310. SAME; MAINTENANCE. All pumping units at an oil or gas well must be kept in a clean, tidy condition and must be kept well-painted in a manner satisfactory to the governing body. (Code 1968, 4-910)
- 5-311. DISPOSAL OF SALT WATER. All salt water produced from any oil or gas well in the city shall be disposed of according to regulations promulgated by the Kansas Corporation Commission and the Kansas Department of Health and Environment. In no case shall salt water be disposed of by surface means including brine disposal ponds or any other disposal on the land surface. (Code 1968, 4-911)
- 5-312. FRANCHISE REQUIRED FOR PIPELINE IN PUBLIC PLACES. It shall be unlawful for any person to lay or maintain any pipe or pipe line for the transportation of oil or any other substance in or across the streets, alleys, or other public places of the city without having first obtained a franchise ordinance granting permission so to do. All such pipelines shall thereafter be laid, maintained, and operated in accordance with the terms of the franchise. (Code 1968, 4-912)
- 5-313. STATE REGULATIONS. Any oil or gas well drilled within the city shall be constructed in accordance with applicable regulations of the Kansas Corporation Commission and the Kansas Department of Health and Environment. Any person before commencing drilling operations shall notify the appropriate representatives of the commission and department as to the date when drilling operations will commence. (Code 1968, 4-913)

- 5-314. UTILITY LINES. It shall be the responsibility of persons drilling an oil or gas well or installing crude oil transmission lines to determine the locations of utility lines including cable TV and telephone lines and any existing pipelines. Such transmission lines shall be installed two feet from utility lines and in accordance with existing regulations. The immediate repair of such utility lines or pipelines damaged in the process of drilling an oil or gas well or the installation of crude oil transmission lines shall be the responsibility of the persons. (Code 1968, 4-914)
- 5-315. GOVERNING BODY MAY MAKE ADDITIONAL REQUIREMENTS. At any time of the granting of any permit or license, under the provisions of this article the governing body may make such additional requirements by resolution as it may deem necessary for the protection and safety of persons and property in the territory likely to be affected by the drilling of the well. (Code 1968, 4-915)
- 5-316. PENALTY FOR VIOLATION. Any person hereafter drilling or commencing operations for the drilling of any oil or gas well in violation of the provisions of this article or thereafter pumping or operating any well drilled in violation of this article, shall upon conviction thereof, be punished as provided in section 1-116. Each day's violation of this article shall be deemed a separate offense. (Code 1968, 4-916)

ARTICLE 4. PAWNBROKERS AND SECONDHAND DEALERS

- 5-401. DEFINITIONS. As used in this article, the following words and phrases shall have the meanings ascribed to them:
- (a) Pawnbroker. Any person who loans money on deposit of personal property, or deals in the purchase of personal property, on condition of selling the same back again at a stipulated price, or who makes a public display at his or her place of business of the sign generally used by pawnbrokers to denote their business, to wit: three gilt or yellow balls, or who publicly exhibits any sign of money to loan on personal property, is hereby declared to be a pawnbroker.
- (b) Secondhand Dealer. Any person whose principal business is the buying and selling of used goods, wares, merchandise, furniture, tools of any kind, automobile tires, accessories or supplies, clothing, wearing apparel, jewelry or any other article or articles of value, from any person, firm, company or corporation not regularly dealing in the article, is hereby declared to be a secondhand dealer.
(Code 1968, 4-1001)
- 5-402. PAWNBROKER; KEEP REGISTER AND MAKE REPORTS. Every pawnbroker shall keep, at this place of business, a register in which he or she shall enter in writing a minute description of all property taken, purchased or received as aforesaid, including any number that may be in or upon any article, together with the time, and name and place of residence (giving street and number if within the city) of the person leaving the property; also the amount loaned, the interest charged, and the time when the loan falls due, which register shall be kept clean and legible. He or she shall make such entries immediately upon the receipt or purchase of such property. Every entry shall be made in ink, and shall not in any manner be erased, obliterated or effaced. The person negotiating or leaving such property shall be given a plainly written or printed ticket, having upon it a full and perfect copy of all the entries required by article, to be kept in such register for which copy no charge shall be made. (Code 1968, 4-1003)
- 5-403. PAWNBROKER REGISTER; INSPECTION; SHOW ARTICLES. The register shall at all times be kept open to the inspection of the chief of police or officers designated by him or her and the pawnbroker shall also, upon request of the officers, show and exhibit to such officers for inspection any article or articles purchased, taken or received by him or her. (Code 1968, 4-1004)
- 5-404. PAWNBROKER REGISTER; ENTRIES; INSPECTION. Every pawnbroker shall, upon the absolute purchase of any personal property, enter the same in the register in the same manner as property received on pledge, and shall, for five days after such purchase, keep the same at his or her place of business subject to inspection by the officers, as fully and to the same extent as good received on pledge. (Code 1968, 4-1005)
- 5-405. SECONDHAND DEALER; REGISTER TO BE KEPT; WHAT RECORD MUST SHOW; COPY FURNISHED CHIEF OF POLICE. Every secondhand dealer shall keep at his or her place of business a register in which he or she shall enter in writing with ink in a legible hand a minute description of all personal property of every kind and character, taken, purchase or received, and shall include in the

description any number or other identifying marks which might appear in or upon such article or articles, together with the name, place of residence and personal description of the person or persons selling the property and the amount paid therefor, and the hour of day purchase is made. The secondhand dealer shall, immediately upon the purchase of any chattels or personal property aforesaid, make an entry upon the register kept for such purchase in ink, and the entry shall not be erased, obliterated or effaced. (Code 1968, 4-1006)

ARTICLE 5. TREE TRIMMING

- 5-501. SCOPE OF LICENSE REQUIREMENT. No person shall engage in the tree trimming or removal business or use trucks or vehicles in the business, without having first obtained a tree trimmer's license from the city. The license, when issued, shall cover all the tree trimmers, solicitors and other employees of the particular business licensee, it not being the intent of this article to require a separate license for each employee or agent of any firm, partnership, association or corporation. (Code 1968, 4-1301; Code 1990)
- 5-502. PUBLIC LIABILITY INSURANCE PREREQUISITE TO LICENSING; AMOUNT, CONDITIONS. No license shall hereafter be issued until such applicant has filed with the city, a certificate of a public liability insurance policy, endorsed by an insurance company authorized to do business in the State of Kansas, or until giving such other proof that the public liability insurance policy has been issued by an insurance company authorized to do business in the State of Kansas, and shall be issued with minimum limits of \$25,000 to \$50,000 for bodily injury, and \$10,000 for property damage; the insurance to be effective, whether the tree trimming or tree cutting at the time of any accident was being performed by the licensee, his or her agent or employee. The insurance policy shall further provide that it cannot be cancelled until 10 days' written notice has been filed with the city clerk. The license hereinafter provided for shall be automatically revoked upon receipt of cancellation of such insurance policy. (Code 1968, 4-1302)
- 5-503. LICENSE FEE PRESCRIBED; TRANSFER, ASSIGNMENT OF LICENSE PROHIBITED. The annual license fee for every license to engage in the business of tree trimming or tree surgery shall be the sum of \$25.00 per calendar year or any fraction thereof. The license shall be nontransferable and shall not be assignable.
(Code 1968, 4-1304)
- 5-504. EXEMPTIONS FROM ARTICLE PROVISIONS. This article shall not apply to any person working at his or her own residence or established place of business, or on property owned by him or her, or to regularly employed wage hands of the person working thereon, nor shall it apply to holders of street franchises authorized to trim trees or shrubs therein. This article shall not apply to officials or employees of the federal, state, county or city governments engaged in the performance of their official duties, nor shall this article apply to any utility company holding a valid franchise issued by the city. (Code 1968, 4-1305)
- 5-505. PENALTIES FOR VIOLATION OF ARTICLE. Any person violating any of the provisions of this article shall, upon conviction thereof, be punished as provided by section 1-116 of this code. Each and every days' violation of any of the provisions of this article shall constitute a separate offense. (Code 1968, 4-1306; Code 1990)

ARTICLE 6. PRIVATE WATER WELL DRILLING

- 5-601. ACT UNLAWFUL. (a) It shall be unlawful for any person or corporation to drill, or cause to be drilled a private water well within the corporate limits of the city unless it complies with the terms of this section.
(b) Definition. A private water well system covered by this article shall include any cistern, tank or other means of collecting and storing water.
(Ord. 1071, Secs. 1,4)
- 5-602. LICENSE REQUIRED; FEES. (a) Before any private water well is drilled in the city, an application for permit must be filed with the office of the city clerk. The city clerk shall then submit such application to the city council for its approval.
(b) The governing body shall examine the application; and if it is determined that none of the city water wells will be adversely affected, the governing body may issue a permit to the applicant, upon receipt of a \$5 permit fee.
(Ord. 1071, Sec. 2)
- 5-603. APPLICATION FOR LICENSE. The application shall contain the following covenants: (a) That the drilling of the well will comply with all terms and conditions as set forth in K.S.A. 82a-1201 *et. seq.*, and amendments thereto, and any other provisions of the laws of the State of Kansas or the City of Ellis, Kansas.
(b) The well shall be properly cased with galvanized water well casing strong plastic casing, or any other casing of comparable strength and set through the water producing formation and cemented.
(c) Authorization for a city employee to enter upon applicant's premises as provided in Section 5-604 of this article.
(d) By signature and submission of the application document the applicant states that the well shall be drilled by a licensed driller.
(Ord. 1237; Code 2006)
- 5-604. INSPECTION BY CITY SUPERINTENDENT; WHEN REQUIRED. (a) Before issuing a permit to drill a private water well, and prior to the drilling of the well, the city superintendent or his or her designated agent shall inspect the proposed site for the well to insure that it does not interfere with already existing city utilities or easements.
(b) After the well is completed, but before it is put into use by the owner, another inspection is to be conducted by an agent of the city superintendent to insure that the well complies with this article.
(Ord. 1071, Secs. 4,6)
- 5-605. CROSS CONNECTIONS RESTRICTED. There shall be no physical connection between any private water well system and the public water system of the city unless such connection is made in compliance with the provisions of all other city and state laws and ordinances including the provisions concerning cross connections between the public water supply of the city and any other water or substance of questionable or unknown quality and further providing that all regulations providing for the enforcement of regulations, laws and ordinances concerning cross connections are complied with. (Ord. 1071, Sec. 7)

5-606. PENALTIES FOR VIOLATION OF ARTICLE. (a) Violation of any of the provisions of this article shall constitute cause for disconnection of the public water service to the property in question.

(b) Any person or corporation who violates the provisions of this article shall be required to pay a fine of not less than \$100.00 nor more than \$500.00.

(c) An agent of the city shall have the right at all reasonable hours to enter upon any premises within the city for the purpose of inspection and enforcement of provisions of this article.

(Ord. 1071, Secs. 6, 10:11)

5-607. REGISTRATION WITH CITY REQUIRED. All private water wells and systems located within the corporate limits of the city shall be registered in the office of the city clerk and must comply with the terms and provisions contained herein.

(Ord. 1071, Sec. 8)

CHAPTER VI. ELECTIONS

Article 1. City Elections

Article 2. Wards and Precincts

ARTICLE 1. CITY ELECTIONS

- 6-101. CONDUCT OF ELECTION. The election of city officials shall be conducted in all respects as provided by the laws of Kansas governing the holding of city elections. (K.S.A. 25-2101 et seq.; Code 1990)
- 6-102. HOURS OF VOTING. At all city elections the polls shall be open at 7 a.m. and close at 7 p.m., unless different hours are set and publicly announced by the county election officer. (K.S.A. 25-2111, 26-206; Code 1990)
- 6-103. EXEMPTION OF CITY FROM PRIMARY ELECTION REQUIREMENT. Regardless of the number of candidates who have filed for election for any city office, there shall be no necessity of a primary election, and every person who has filed for any city office shall be listed on the ballot and be voted upon by the voters at the general election of the city officers, to be held on the first Tuesday in April. The person from among the candidates who receives the largest number of votes at such general election shall be declared the winner in the election. (C.O. No. 10, Sec. 2)
- 6-104. OFFICERS TO BE ELECTED; TERMS. (a) There shall be elected on the first Tuesday in April of each odd-numbered year a mayor, city treasurer, and one-half the number of councilmen, as hereinafter set forth in this section. The mayor, council members, and city treasurer shall hold their offices for a term of two years. The remaining seats of the governing body not up for election on odd numbered years shall be elected in even numbered years. Council members elected in 1996 shall have terms expiring in 1998 and council members elected in 1995 shall have terms expiring in 1997.
(b) The city council shall consist of six members and a mayor. All council members shall be elected by the city at large. Each voter shall have one vote for each city council seat that is up for election. A number of council members shall be elected based upon each candidate's vote total with such number being equal to the available number of council seats.
(C.O. No. 9, Sec. 2; C.O. No. 20, Sec. 2; C.O. No. 21, Sec. 2)
- 6-105. COMMENCEMENT OF TERMS OF OFFICE; OATH OF OFFICE. (a) The term of office for newly elected city officials shall commence with and include the first regular meeting of the governing body 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; Code 2005)

ARTICLE 2. WARDS AND PRECINCTS

6-201. WARDS; ESTABLISHED, BOUNDARIES. The city is hereby divided into wards as set forth in this article and as follows:

Beginning at the northwest corner of the south half of the southeast quarter of Section 5, Township 13 South, Range 20 West in the City of Ellis, Ellis County, Kansas; thence north 140 feet; thence east 562.50 feet; north 187.50 feet; thence northeast 187.50 feet; thence northwest on a curve 187.50 feet; thence north 112.50 feet; thence east 525 feet; thence northeast on a slight curve 37.50 feet; thence northwest 422.71 feet to the south right-of-way line of Interstate Highway 70; thence southeast 712.54 feet; thence southeasterly 267.2 feet; thence east 100 feet; thence northeasterly 243.75 feet; thence northeast, at an angle of 117 degrees 28 minutes a distance of 600 feet; thence south on the east line of Walnut Street 1312.50 feet; thence east 2306.25 feet, to the northeast corner of the northwest quarter of Section 9, Township 13, South, Range 20 West; thence south to the U.P.R.R.; thence northwest, following the U.P.R.R., to the point at which it intersects with Washington Street; thence north on the center line of Washington Street to West 9th Street; thence west on 9th Street center line to Jefferson Street; thence north on the center line of Jefferson Street to the south line of Big Creek; thence southwest on the south line of Big Creek to Dorrance Street; thence south on the center line of Dorrance Street to the U.P.R.R.; thence west following the railroad 1230 feet; thence north on the city limit line 2700 feet to the point of beginning.

Beginning at the intersection of Washington Street and the U.P.R.R., in the City of Ellis, Ellis County, Kansas; thence south on the center line of Washington Street to 10th Street; thence east on the center line of 10th Street to Monroe Street; thence south on the center line of Monroe Street to the intersection of Monroe and 13th Streets; thence west on the center line of 13th Street to the connection with the portion of Washington Street that goes south of 13th Street and west of Washington Grade School; thence south on the center line of that portion of Washington Street to East 15th Street; thence east of the center line of East 15th Street to Monroe Street; thence south on the center line of Monroe Street to the southwest corner of the northwest quarter of Section 16, Township 13 South, Range 20 West; thence east on the city limit line 1180 feet, north 2700 feet, east 100 feet, north 1762.50 feet, east 1500 feet, north 300 feet, northwest 206.25 feet, and north 225 feet; thence west on the U.P.R.R. line to the point of beginning.

Beginning at the intersection of Washington and 10th Streets in the City of Ellis, Ellis County, Kansas; thence east on the center line of 10th Street to Monroe Street; thence south on the center line of Monroe Street to 13th Street; thence west on the center line of 13th Street to the connection with the portion of Washington Street that goes south of 13th Street and west of Washington Grade School; thence south on the center line of Washington Street to East 15th; thence east on the center line of 15th Street to Monroe Street; thence south on the center line of Monroe Street 2268.75 feet; thence, on the city limit line, west 750 feet, north 1987.50 feet, west 40 feet, north 300 feet; thence east 2625 feet, and northwesterly on the city limit and Big Creek line to the U.P.R.R. at a location 1875 feet west of Cottonwood Street; thence, still following the city limit line, 1875 feet east to Cottonwood Street; thence north on the center line of Cottonwood Street to the U.P.R.R.; thence east following the U.P.R.R. to Dorrance Street; thence north

on the center line of Dorrance Street to the south line of Big Creek; thence northeast on the south line of Big Creek to Jefferson Street; thence south on the center line of Jefferson Street to West 9th Street; thence east on West 19th Street to Washington Street; thence south on the center line of Washington Street to the point of beginning. (Code 1990)

CHAPTER VII. FIRE

- Article 1. Fire Department
- Article 2. Fire Prevention
- Article 3. Fireworks

ARTICLE 1. FIRE DEPARTMENT

- 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 10 nor more than 25 firefighters. Members of the fire department shall be appointed by the fire chief and confirmed by the council. (Code 1968, 7-101; Code 1990)
- 7-102. MEMBERSHIP; FIRE DRILL. (a) 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.
- (b) All members of the fire department shall reside within the sphere of influence of the City of Ellis as set forth in the Comprehensive Plan of the City. No person shall be appointed as an officer and member of the department unless he or she is between the ages of 18 and 60 and of good health and sound in mind and body at the time of the appointment. The chief of the department may require any member to report to a physician for a thorough examination, and upon the completion of any such examination the physician shall certify his or her findings respecting any member of the fire department to the chief thereof. Any person failing to pass a satisfactory physical examination will be subject to removal therefrom within such time as may be recommended by the chief. Before any person is appointed a member of the fire department, he or she may be required to undergo a physical examination as provided above. (Ord. 1220, Code 2005)
- 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.
- (Code 1968, 7-103; Code 1990)
- 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 fire fighters 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. (Code 1968, 7-103,108; Code 1990)

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. (Code 1968, 7-107; Code 1990)

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. (Code 1968, 7-104; Code 1990)

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. (Code 1990)

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 enroute 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 Kansas 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.

(Code 1990)

7-109. SAME; FIRE HOSE. It shall be unlawful for any person or persons to drive any vehicle over any fire hose laid on any street, alley or lot. This section shall not apply to any apparatus or vehicle being driven by members of the fire department.

(Code 1990)

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. (Code 1990)

7-111. FALSE ALARMS. (a) Civil Penalty. Any person who shall make or allow to be made a false alarm or to make any sound or cause to be made or sounded, or by any other means, create a false alarm, whether by intentional act or by inadvertence, shall be liable to the city for a civil penalty as provided for hereinafter.

(b) Definitions. As used in this article, the following words shall have the following meanings:

(1) False Alarm means the activation of an alarm system in the city resulting in an urgent response by law enforcement, fire or emergency medical personnel when a situation requiring an urgent response does not, in fact, exist. A false alarm may be the result of, but is not limited to, mechanical or electronic failure, malfunction, improper installation, improper adjustment, accidental tripping, misoperation, misuse, defect, or negligence of a person.

(A) Provided, however, if an alarm signal is caused by violent conditions of nature or other circumstances not reasonably subject to control by the alarm user, it shall not be deemed a false alarm for purposes of this article.

(c) Response Fee.

(1) Except as otherwise provided in this article, the user of an alarm system that transmits an alarm to which law enforcement personnel, fire personnel, or emergency medical personnel are requested to respond, shall be charged a response fee of \$150.00 per alarm. Provided, however, no response fee shall be charged:

(A) For the first alarm of each calendar year;

(B) When it is reasonable to assume that the alarm was due to violent conditions of nature including an electrical storm which have been verified by the National Weather Service to have been in the area where the alarm system is located at the time of the activation;

(C) Cable, line, or power failure which has been specifically verified by the appropriate utility company serving the alarm location;

(D) For those alarms resulting from valid situations requiring an urgent response by law enforcement, fire or emergency medical personnel as verified by a report filed by such personnel.

(2) Should a disagreement arise over whether any particular response fee should be assessed, the facts surrounding the circumstances of the alarm activation shall first be presented in writing by the alarm user to the city clerk, who shall, after consideration of all the information presented, determine whether a response fee should be assessed.

(3) If disagreement still exists after consideration by the city clerk, the facts surrounding the alarm activation shall be presented to the city council who shall, after consideration of all the information presented, determine whether a response fee should be assessed. All such disagreements must be presented in

writing by the alarm user to the city council within 30 days after the date of notification of the city clerk's determination under subsection (2) that a response fee is due as a result of the particular alarm being questioned; otherwise the determination by the city clerk shall be deemed correct.

(4) In making the determinations required by subsections (2) and (3), the city clerk and city council shall give consideration to the following, if presented in addition to all other information presented:

(A) The alarm user's history of valid and false alarms;

(B) Violent conditions of nature, including electrical storms existing at the time of the alarm activation;

(C) Other circumstances not reasonably subject to control by the alarm user;

(D) Information from utility companies concerning cable, line or power failures or problems;

(E) Information from the law enforcement, fire or emergency medical personnel who responded to the alarm activation; and,

(F) The presence or absence of any direct or indirect evidence that a situation requiring an urgent response existed at the time of the alarm activation.

(5) The response fee under this section shall be due and payable in the office of the city treasurer within 30 days after receipt of notification that such fee is due. In the event such fee is not paid within 30 days, interest will be added to the unpaid fee at the rate of 1½ % per month until paid. (Ord. 1061, Secs. 1:3)

ARTICLE 2. FIRE PREVENTION

- 7-201. INTERNATIONAL FIRE CODE ADOPTED. (a) The International Fire Code, 2003 edition, as published by the International Code Council, together with appendix A through appendix G of the International Fire Code, and contained therein with the following amendments, is hereby adopted.
- (b) Three (3) copies of the International Fire Code, 2003 edition and appendix A through appendix G shall be available at the City clerk's office, for viewing and inspection by the public.
- (c) Whenever the word "jurisdiction" is used in the International Fire Code, it shall be held to mean the City of Ellis, Kansas.
(Ord. 1209, Sec. 1; Code 2005)
- 7-202. CONFLICTING PROVISIONS. When this code conflicts with other codes, laws, ordinances or standards, as required by state and federal law, then the most restrictive requirement shall be applied. (Ord. 1209, Sec. 2; Code 2005)
- 7-203. FIRE CODE OFFICIAL. The fire code official shall be the fire chief, who may appoint deputies, including the firefighters in the classified service of the city. The fire chief shall have the authority of a police officer as needed to carry out the duties and requirements of this chapter, and may delegate this authority as needed. The police chief is authorized to assist the fire chief as necessary in enforcing the provisions of this chapter. (Ord. 1209, Sec. 3; Code 2005)
- 7-204. AMENDMENTS. (a) Wherever the word municipality is used in the code hereby adopted, it shall be held to mean the City of Ellis.
- (b) Operational permits, as specified in section 105 of the International Fire Code, shall not be required; however, construction permits shall be required.
- (c) The board of appeals established in the International Fire Code shall be the building trades board of the City of Ellis as established in section 4-1001 of the city code.
- (d) Panic and fire exit hardware. Each door in a means of egress from an assembly, educational or child or adult day care occupancy having an occupant load of 50 or more shall not be provided with a lock or latch unless it is panic hardware or fire exit hardware.
(Code 1209, Sec. 4; Code 2005)
- 7-205. HAZARDOUS MATERIALS. (a) The outdoor storage of flammable cryogenic fluids in stationary containers, as specified in section 3204.3.1.1 of the International Fire Code is prohibited within the city limits, except as specifically permitted by the zoning and subdivision regulations of the city.
- (b) The outdoor storage of class I flammable liquids and class II combustible liquids in above ground tanks, as specified in section 3404.2.9.5.1 of the International Fire Code, is prohibited within the city limits, except as permitted by the zoning and subdivision regulations of the city.
- (c) The storage of class I flammable liquids and Class II combustible liquids in above ground tanks, as specified in section 3406.2.4.4 of the International Fire Code, is prohibited within the city limits, except as permitted in the zoning and subdivision regulations of the city.

(d) The storage and handling of liquefied petroleum gas, as specified in section 3804.2 of the International Fire Code, is prohibited within the city limits, except as permitted by the zoning and subdivision regulations of the city. Liquefied petroleum gas storage in industrial areas of the city shall not exceed five hundred (500) gallons at any one installation. Portable liquefied petroleum gas containers used for construction or temporary heating shall not exceed two (2) one hundred (100) gallon containers in any one location, except that the fire chief may permit larger quantities for special needs.

(e) The storage and handling of explosives and blasting agents, as specified in section 3304 of the International Fire Code, is prohibited within the city limits, except as specifically permitted by the zoning and subdivision regulations of the city.

(f) The manufacture, assembly and testing of explosives, explosive materials and fireworks, as specified in section 3305 of the International Fire Code, is prohibited within the city limits, except as specifically permitted by the zoning and subdivision regulations of the city.

(Ord. 1209, Sec. 5; Code 2005)

7-206. SAME; MODIFICATIONS IN FIRE PREVENTION CODE. The fire marshal shall have power to modify any of the provisions of the Fire Prevention Code upon application in writing by the owner or lessee, or his or her duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such modification when granted or allowed and the decision of the fire chief thereon shall be entered upon the records of the department and a signed copy shall be furnished the applicant.
(Code 1968, 7-407)

7-207. APPEALS FROM DECISIONS OF FIRE CHIEF. Whenever the fire chief of the fire department shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the fire marshal of the fire department to the state fire marshal within 30 days from the date of the decision appealed. (Code 1968, 7-408)

7-208. NEW MATERIALS, PROCESSES OR OCCUPANCIES WHICH MAY REQUIRE PERMITS. The mayor and the fire chief shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies, which shall require permits, in addition to those now enumerated in the code. The fire chief shall post such list in a conspicuous place in his or her office and distribute copies thereof to interested persons. (Code 1968, 7-409)

7-209. VIOLATIONS. Violations and penalty provision contained in Section 109 and Section 111 of the International Fire Code shall not apply. Violations of this code, when contested shall be tried in the municipal court and the court shall

have the power to issue penalties for said violations, as provided in Section 9-106 of this code. (Ord. 1209, Sec. 6; Code 2005)

- 7-210. **OPEN BURNING.** It shall be unlawful for any person to burn, or cause to be burned outdoors and within the city limits of the city, any trash (leaves, paper or other refuse or combustible material) of any kind whatsoever, except for the operation of an outdoor fireplace or apparatus used for cooking purposes while a responsible adult is personally present and in charge of such activity; provided, however, that nothing herein contained shall prevent burning of materials under the supervision of the Ellis Fire Department or any governmental unit.
(Code 1968, 8-507)
- 7-211. **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 which shall constitute a fire hazard.
(Code 1968, 7-203; Code 1990)
- 7-212. **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. (Code 1968, 7-206; Code 1990)
- 7-213. **KEEPING OF PACKING MATERIALS.** It shall be unlawful to keep excelsior or other packing material in any other than metal or wood metal line 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.
(Code 1968, 7-205; Code 1990)
- 7-214. **STORAGE OF ASHES.** It shall be unlawful to store ashes inside of any non-fireproof 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. (Code 1968, 7-204; Code 1990)
- 7-215. **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. (Code 1990)
- 7-216. **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. (Code 1990)

7-217. 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. (Code 1968, 7-207; Code 1990)

7-218. 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. (Code 1990)

7-219. SAME; SERVICE OF ORDER; RECORDS. Any order made under section 7-219 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. (Code 1990)

ARTICLE 3. FIREWORKS

- 7-301. FIREWORKS DEFINED. For purposes of this article, the term fireworks shall mean those items as defined by the rules and regulations of the Kansas 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 .25 of 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. (Code 1990)
- 7-302. FIREWORKS PROHIBITED. (a) Except as provided in sections 7-303:306; it shall be unlawful for any person to keep, store, display for sale, fire, discharge or explode any fireworks.
- (b) Nothing in this article shall be construed as applying to:
- (1) Toy paper caps containing not more than .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. (Ord. 1041, Sec. 1; Code 1990)
- 7-303. SAME: EXCEPTIONS; DISCHARGES. (a) Section 7-302 of this article shall not apply to the fire or discharge of fireworks in the city between the hours of 8:00 a.m. and 12:00 midnight on July 4th.
- (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.
- (d) In the event that the city council of the city shall determine that weather conditions or any other circumstances shall justify the prohibition of discharge, within the city limits of firecrackers and fireworks on the fourth day of July in each year then, the city council may, by resolution, prohibit the discharge of such fireworks either in the form of permitted pyrotechnical displays or by individuals. In the event the city council of the city so resolves such resolution shall be published in the official city newspaper prior to the 4th day of July in the year that such resolution is to be effective. (Ord. 1041, Sec. 1; Code 1990)
- 7-304. PERMIT FOR SALE OF FIREWORKS REQUIRED; FEE; ISSUANCE OF PERMIT; DATES AND TIMES FIREWORKS CAN BE SOLD; LIABILITY

INSURANCE.

(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 applying for and securing a permit from the sitting city council and paying a permit fee of \$10.

(b) No permit request shall be considered by the city council unless such request is made on or before May 1st of the year in which the permit is requested.

(c) No permit shall be considered by the city council unless such permit is made by a group operation as a not for profit organization under the laws of the State of Kansas.

(d) No permit shall be considered or issued by the city council until such time as the group requesting the issuance of such permit has provided proof of liability insurance in an amount not less than \$750,000 with the city being named as a second insured party.

(e) The city council will review every application, including the location of each proposed site of sale. The city council will approve or disapprove each application by majority vote.

(f) Fireworks shall only be sold from June 27th at 9:00 a.m. until July 4th at 8:00 p.m. of the year for which any city permit is issued. (Ord. 1296; Code 2009)

7-305.

PERMIT FOR PUBLIC FIREWORKS DISPLAY REQUIRED. (a) It shall be unlawful for any person to give or provide a fireworks display for the public or for organized groups without first obtaining a permit to do so by making application at least 30 days in advance of the desired display. Approval of the permit shall be by the governing body. No permit shall be approved unless the applicant furnishes a certificate of public liability insurance for the display in a minimum amount of \$100,000, written by an insurance carrier licensed to do business in Kansas, conditioned as being non-cancellable except by giving 10 days advance written notice to the city clerk. In the event of cancellation of the insurance prior to the display, the permit shall automatically be revoked and void. The application for the permit shall clearly state:

(1) The name of the applicant.

(2) The group for which the display is planned.

(3) The location of the display.

(4) The date and time of the display.

(5) The nature or kind of fireworks to be used.

(6) The name of the person, firm or corporation that will make the actual discharge of the fireworks.

(7) Anticipated need for police, fire or other municipal services.

(b) No permit shall be issued if the location, nature of the fireworks or other relevant factor is such as to create an undue hazard or risk of harm or damage to persons or property or for any place which is within 1,000 feet of any building within the city. (Ord. 1041, Sec. 1; Code 1990)

7-306.

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. (Code 1990)

7-307. 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. (Code 1990)

7-308. 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. (Code 1990)

7-309. 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. (Code 1990)

7-310. 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. (Code 1990)

7-311. 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. (Code 1990)

7-312. 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.

(Code 1990)

7-313.

AUTHORITY OF FIRE CHIEF. The chief of the fire department is authorized to seize and confiscate all fireworks which 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.

(Code 1968, 7-303; Code 1990)

CHAPTER VIII. HEALTH AND WELFARE

Article 1.	Board of Health
Article 2.	Health Nuisances
Article 2A.	Environmental Code
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ARTICLE 1. BOARD OF HEALTH

- 8-101. **BOARD OF HEALTH CREATED.** The board of health shall consist of a city health officer, who shall be a practicing doctor of medicine and two additional members who shall be members of the governing body. The city health officer and the two additional members of the board of health shall be appointed annually by the mayor at the first regular meeting of the governing body in April of each year, to serve for one year terms subject to confirmation by the mayor; provided, that a member of the governing body appointed to the board of health shall have no right to vote for or against his or her own confirmation. The board shall adopt such rules and regulations as may be necessary to guide its operations. The city clerk shall be secretary of the board but shall have no vote. He or she shall preserve its records, rules and regulations and shall issue all orders and notices which may be required by ordinance or order of the board. (Code 1968, 8-103; Code 1990)
- 8-102. **CITY HEALTH OFFICER; DUTIES.** The city health officer shall:
- (a) Cause health investigations and inspections to be made as required by the laws of Kansas and of the city;
 - (b) Make recommendations to the board respecting the improvement of health of the inhabitants of the city;
 - (c) Make all health reports required by the State Department of Health and Environment, Division of Health;
 - (d) Prepare an annual health report of the city for submission to the governing body;
 - (e) Perform such other duties as may be required of him or her under the laws of the State of Kansas or of the city.
- (Code 1968, 8-101:102; Code 1990)

ARTICLE 2. HEALTH NUISANCES

- 8-201. NUISANCES UNLAWFUL; DEFINED. It shall be unlawful for any person to maintain or permit any nuisance within the city as defined, without limitation, as follows:
- (a) Filth, excrement, lumber, rocks, dirt, cans, paper, trash, metal or any other offensive or disagreeable thing or substance thrown or left or deposited upon any street, avenue, alley, sidewalk, park, public or private enclosure or lot whether vacant or occupied;
 - (b) All dead animals not removed within 24 hours after death;
 - (c) Any place or structure or substance which emits or causes any offensive, disagreeable or nauseous odors;
 - (d) All stagnant ponds or pools of water;
 - (e) All grass or weeds or other unsightly vegetation not usually cultivated or grown for domestic use or to be marketed or for ornamental purposes;
 - (f) Abandoned iceboxes or refrigerators kept on the premises under the control of any person, or deposited on the sanitary landfill, or any icebox or refrigerator not in actual use unless the door, opening or lid thereof is unhinged, or unfastened and removed therefrom;
 - (g) All articles or things whatsoever caused, kept, maintained or permitted by any person to the injury, annoyance or inconvenience of the public or of any neighborhood;
 - (h) Any fence, structure, thing or substance placed upon or being upon any street, sidewalk, alley or public ground so as to obstruct the same, except as permitted by the laws of the city.
(K.S.A. 21-4106:4107; Code 1990)
- 8-202. PUBLIC OFFICER. The mayor with the consent of the council shall designate a public officer to be charged with the administration and enforcement of this article.
(Code 1990)
- 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 which appear to constitute a nuisance. Upon making any inquiry and inspection the public officer shall make a written report of findings. (Code 1990)
- 8-204. RIGHT OF ENTRY. The public officer has the right of access and entry upon private property at any reasonable time for the purpose of making inquiry and inspection to determine if a nuisance exists. (Code 2002)
- 8-205. 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 in violation of Section 8-201, an order stating the violation. The order shall be served on the owner or agent of

such property by certified mail, return receipt requested, or by personal service. If the property is unoccupied and the owner is a non-resident, service shall be made by mailing the order by certified mail, return receipt required, 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 twenty-four month period, the governing body of the City may provide notice of the issuance of any further orders to abate or remove a nuisance from such property, or provide notice of the order, by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a non-resident, notice provided by this section shall be given by telephone communication or first class mail. (K.S.A. 12-1616e, Ord. 1191; Code 2005)

8-206. SAME; CONTENTS. The notice shall state the condition(s) which is (are) in violation of section 8-201. The notice shall also inform the person, corporation, partnership or association that:

(a) He, she or they shall have 10 days from the date of serving the notice to abate the condition(s) in violation of section 8-201; or

(b) He, she or they have 10 days from the date of serving the notice to request a hearing before the governing body of the matter as provided by section 8-209;

(c) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by section 8-207 and/or abatement of the condition(s) by the city as provided by section 8-208. (Code 1990)

8-207. FAILURE TO COMPLY; PENALTY. Should the person, corporation, partnership or association fail to comply with the notice to abate the nuisance or request a hearing the public officer may file a complaint in the municipal court of the city against such person, corporation, partnership or association and upon conviction of any violation of provisions of section 8-201, be fined in an amount not to exceed \$100.00 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. (Code 1990)

8-208. ABATEMENT. In addition to, or as an alternative to prosecution as provided in section 8-207, the public officer may seek to remedy violations of this section in the following manner. If a person to whom a notice has been sent pursuant to section 8-205 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in section 8-206, the public officer may present a resolution to the governing body for adoption authorizing the public officer or other agents of the city to abate the conditions causing the violation at the end of 10 days after passage of the resolution. The resolution shall further provide that the costs incurred by the city shall be charged against the lot or parcel of ground on which the nuisance was located as provided in section 8-210. A copy of the resolution shall be served upon the person in violation in one of the following ways:

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

8-209. HEARING. If a hearing is requested within the 10 day period as provided in section 8-206, such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the public officer before the governing body. The hearing shall be held by the governing body as soon as possible after the filing of the request therefore, and the person shall be advised by the city of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the governing body shall record its determination of the matter by means of adopting a resolution and serving the resolution upon the person in the matter provided in section 8-208. (Code 1990)

8-210. COSTS ASSESSED. If the city abates the nuisance pursuant to section 8-208, the cost of abatement shall be charged against the lot or parcel of ground on which the nuisance was located. The city clerk shall, at the time of certifying other taxes to the county clerk, certify the costs as provided in this section. The county clerk shall extend the same on the tax roll and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. (Code 1990)

ARTICLE 2A. ENVIRONMENTAL CODE

- 8-2A01. TITLE. This article shall be known as the "Environmental Code." (Code 1990)
- 8-2A02. LEGISLATIVE FINDING OF FACT. The governing body has found that there exist 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. (Code 1990)
- 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. (Code 1990)
- 8-2A04. RULES OF CONSTRUCTION. For the purpose of this article, the following rules of construction shall apply:
- (1) 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."
 - (2) Gender - Words of gender shall be construed to mean neuter, feminine or masculine, as may be applicable.
 - (3) Number - Words of number shall be construed to mean singular or plural, as may be applicable.
 - (4) Tense - Words of tense shall be construed to mean present or future, as may be applicable.
 - (5) Shall - The word shall is mandatory and not permissive.
- (Code 1990)
- 8-2A05. DEFINITIONS. The words and phrases listed below when used in this article shall have the following meanings:
- (1) Abandoned Motor Vehicle - any motor vehicle which is not currently registered or tagged pursuant to K.S.A. 8-126 to 8-149 inclusive, as amended; or parked in violation of the code; or incapable of moving under its own power; or in a junked or wrecked condition.
 - (2) 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.
 - (3) Commercial or Industrial - used or intended to be used primarily for other than residential purposes.

(4) Dilapidation, Deterioration or Disrepair - shall mean 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.

(5) Exterior - those parts of a structure which 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.

(6) 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.

(7) 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.

(8) 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.

(9) Refuse - garbage and trash.

(10) Residential - used or intended to be used primarily for human habitation.

(11) 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.

(12) 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.

(13) Weathered - deterioration caused by exposure to the elements.

(14) Yard - the area of the premises not occupied by any structure.

(Code 1990)

8-2A06. PUBLIC OFFICER. The mayor with the consent of the council shall designate a public officer to be charged with the administration and enforcement of this article.

(Code 1990)

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 section 8-2A08 but shall not include conditions which are not readily visible from any public place or from any surrounding private property. (Code 1990)

8-2A08. UNLAWFUL ACTS. It shall be unlawful for any person to allow to exist on any residential, commercial or industrial premises, conditions which are injurious to

the health, safety or general welfare of the residents of the community or conditions which are detrimental to adjoining property, the neighborhood or the city for the purpose of fair and efficient enforcement and administration, such unlawful conditions shall be classified as follows:

(a) 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:

(1) lumber, wire, metal, tires, concrete, masonry products, plastic products, supplies, equipment, machinery, auto parts, junk or refuse;

(2) abandoned motor vehicles; or

(3) furniture, stoves, refrigerators, televisions, sinks, bicycles, lawn mowers, or other such items of personal property.

(4) nauseous substances, carcasses of dead animals or places where animals are kept in an offensive manner.

(b) Exterior conditions (structure) shall include, but not be limited to, deteriorated, dilapidated, or unsightly:

(1) exteriors of any structure;

(2) exteriors of any accessory structure; or

(3) fences, walls, or retaining walls.

(Code 1990)

8-2A09. NOTICE. Any person found by the public officer to be in violation of section 8-2A08 shall be served notice of such violation by the public officer. The notice shall be served on the owner or agent of such property by certified mail, return receipt requested, or by personal service, or if the same is unoccupied and the owner is a non-resident, then by mailing a notice by certified mail, return receipt requested, to the last known address of the owner. The notice shall state:

(a) The condition which has caused the violation of this article; and

(b) That the person in violation shall have:

(1) 15 days from the date of the mailing of the notice to alleviate the exterior conditions (yard) violation; and/or;

(2) 45 days from the date of the mailing of the notice to alleviate the exterior conditions (structure) violation; or in the alternative to subsections (1) and (2) above,

(3) 15 days from the date of the mailing of the notice to request, as provided in section 8-2A13 a hearing before the governing body on the matter; and:

(c) That failure to alleviate the condition or to request a hearing may result in prosecution under section 8-2A10 and/or abatement of the condition by the city according to section 8-2A11 with the costs assessed against the property under section 8-2A14. (Ord. 1216, Code 2005)

8-2A10. PENALTY. The public officer may file a complaint in the municipal court against any person found to be in violation of section 8-2A08, provided however, that such person shall first have been sent a notice as provided in section 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 section 8-2A09. Upon such complaint in the municipal court, any person found to be in violation of section 8-2A08 shall upon conviction be punished by a fine of not less than \$50.00 nor more than \$100.00, 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. (Code 1990)

8-2A11. ABATEMENT. In addition to, or as an alternative to, prosecution as provided in section 8-2A10, the public officer may seek to remedy violations of this article in the following manner. If a person to whom a notice has been sent pursuant to section 8-2A09 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in section 8-2A09, 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 20 days after passage of the resolution. The resolution shall further provide that the costs incurred by the city shall be assessed against the property as provided in section 8-2A15.

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 conditions exist. (Code 2002)

8-2A12. HEARING BEFORE GOVERNING BODY. If a hearing is requested within the 15 day period as provided in section 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 before the governing body. The hearing shall be held by the governing body 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. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the governing body shall record its determination of the matter by means of adopting a resolution and serving the resolution upon the person in the manner provided in section 8-2A11. (Code 1990)

8-2A13. APPEALS. Any person affected by any determination of the governing body under sections 8-2A11 or 8-2A12 may appeal such determination in the manner provided by K.S.A. 60-2101. (Code 1990)

8-2A14. COSTS ASSESSED. If the city abates the conditions in violation of this article pursuant to section 8-2A11, the cost of abatement shall be charged against the lot or parcel of ground on which the conditions were located. The city clerk

shall, at the time of certifying other taxes to the county clerk, certify the costs as provided in this section. The county clerk shall extend the same on the tax roll and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. (Code 1990)

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 Kansas Constitution, by any other law or by ordinance. (Code 1990)

ARTICLE 3. JUNKED MOTOR VEHICLES ON PRIVATE PROPERTY

- 8-301. FINDINGS OF GOVERNING BODY. The governing body finds that junked, wrecked, dismantled, inoperative or abandoned vehicles affect the health, safety and general welfare of citizens of the city because they:
- (a) Service as a breeding ground for flies, mosquitoes, rats and other insects and rodents;
 - (b) Are a danger to persons, particularly children, because of broken glass, sharp metal protrusions, insecure mounting on blocks, jacks or other supports;
 - (c) Are a ready source of fire and explosion;'
 - (d) Encourage pilfering and theft;
 - (e) Constitute a blighting influence upon the area in which they are located;
 - (f) Constitute a fire hazard because they frequently block access for fire equipment to adjacent buildings and structures.
- (Code 1990)
- 8-302. DEFINITIONS. As used in this article, unless the context clearly indicates otherwise:
- (a) Inoperable means a condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned or unable to perform the function or purpose for which it was originally constructed;
 - (b) Vehicle means, without limitation, any automobile, truck, tractor or motorcycle which as originally built contained an engine, regardless of whether it contains an engine at any other time.
- (Code 1990)
- 8-303. NUISANCES UNLAWFUL; DEFINED; EXCEPTIONS. It shall be unlawful for any person to maintain or permit any motor vehicle nuisance within the city.
- (a) A motor vehicle nuisance is any motor vehicle which is not currently registered or tagged pursuant to K.S.A. 8-126 to 8-149 inclusive, as amended; or parked in violation of city ordinance; or incapable of moving under its own power; or in a junked, wrecked or inoperable condition. Any one of the following conditions shall raise the presumption that a vehicle is junked, wrecked or inoperable;
 - (1) Absence of a current registration plate upon the vehicle;
 - (2) Placement of the vehicle or parts thereof upon jacks, blocks, or other supports;
 - (3) Absence of one or more parts of the vehicle necessary for the lawful operation of the vehicle upon street or highway.
 - (b) The provisions of this section shall not apply to:
 - (1) Any motor vehicle which is enclosed in a garage or other building;
 - (2) To the parking or storage of a vehicle inoperable for a period of 30 consecutive days or less; or
 - (3) To any person conducting a business enterprise in compliance with existing zoning regulations or who places such vehicles behind screening of sufficient size, strength and density to screen such vehicles from the view of the public and to prohibit ready access to stored vehicles by children. However, nothing in this subsection shall be construed to authorize the maintenance of a public nuisance. (Code 1990)

- 8-304. PUBLIC OFFICER. The mayor with the consent of the council shall designate a public officer to be charged with the administration and enforcement of this article.
(Code 1990)
- 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 which appear to constitute a nuisance. Upon making any inquiry and inspection the public officer shall make a written report of findings. (Code 1990)
- 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. (Code 2002)
- 8-307. NOTICE. Any person found by the public officer to be in violation of section 8-303 shall be served a notice of such violation. The notice shall be served by certified mail, return receipt requested; or by personal service. (Code 2002)
- 8-308. SAME; CONTENTS. The notice shall state the condition(s) which is (are) in violation of section 8-303. The notice shall also inform the person that:
(a) He, she or they shall have 10 days from the date of serving the notice to abate the condition(s) in violation of section 8-303; or
(b) He, she or they have 10 days from the date of serving the notice to request a hearing before the governing body of the matter as provided by section 8-312;
(c) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by section 8-309 and/or abatement of the condition(s) by the city as provided by section 8-310. (Code 1990)
- 8-309. FAILURE TO COMPLY; PENALTY. Should the person fail to comply with the notice to abate the nuisance or request a hearing, the public officer may file a complaint in the municipal court of the city against such person and upon conviction of any violation of provisions of section 8-303, be fined in an amount not to exceed \$100.00 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. (Code 1990)
- 8-310. ABATEMENT. In addition to, or as an alternative to prosecution as provided in section 8-309, the public officer may seek to remedy violations of this article in the following manner. If a person to whom a notice has been sent pursuant to section 8-307 has neither alleviated the conditions causing the alleged violation or requested a hearing before the governing body within the time period specified in section 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 10 days after passage of the resolution.

The resolution shall further provide that the costs incurred by the city shall be charged against the lot or parcel of ground on which the nuisance was located as provided in section 8-313. A copy of the resolution shall be served upon the person in violation in one of the following ways:

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

8-311. DISPOSITION OF VEHICLE. Disposition of any motor vehicle removed and abated from private property pursuant to this article shall be as provided by K.S.A. Supp. 8-1102, as amended. (Code 1990)

8-312. HEARING. If a hearing is requested within the 10 day period as provided in section 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 before the governing body. The hearing shall be held by the governing body as soon as possible after the filing of the request therefore, and the person shall be advised by the city of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the governing body shall record its determination of the matter by means of adopting a resolution and serving the resolution upon the person in the matter provided in section 8-310. (Code 1990)

8-313. COSTS ASSESSED. If the city abates the nuisance pursuant to section 8-310, the cost of abatement shall be charged against the lot or parcel of ground on which the nuisance was located. The city clerk shall, at the time of certifying other taxes to the county clerk, certify the costs as provided in this section. The county clerk shall extend the same on the tax roll and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. (Code 1990)

ARTICLE 4. WEEDS

- 8-401. WEEDS TO BE REMOVED. It shall be unlawful for any owner, agent, lessee, tenant, or other person occupying or having charge or control of any premises to permit weeds to remain upon said premises or any area between the property lines of said premises and the centerline of any adjacent street or alley, including but not specifically limited to sidewalks, streets, alleys, easements, rights-of-way and all other areas, public or private. All weeds as hereinafter defined are hereby declared a nuisance and are subject to abatement as hereinafter provided. (Ord. 1125, Sec. 1)
- 8-402. DEFINITIONS. Weeds as used herein, means any of the following:
- (a) Brush and woody vines shall be classified as weeds;
 - (b) Weeds and grasses which may attain such large growth as to become, when dry, a fire menace to adjacent improved property;
 - (c) Weeds which bear or may bear seeds of a downy or wingy nature.
 - (d) 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;
 - (e) Weeds and 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. 1125, Sec. 2)
- 8-403. PUBLIC OFFICER; NOTICE TO REMOVE. The city manager shall designate a public officer to be charged with the administration and enforcement of this ordinance. 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 ordinance, by certified mail, return receipt requested, or by personal service, once per calendar year. Such notice shall include the following:
- (a) That the owner, occupant or agent in charge of the property is in violation of the city weed control law.
 - (b) That the owner, occupant, or agent in charge of the property is ordered to cut the weeds within 10 days of the receipt of notice.
 - (c) 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.
 - (d) 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.
 - (e) 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.
 - (f) That no further notice shall be given prior to removal of weeds during the current calendar year.
 - (g) That the public officer should be contacted if there are any questions regarding the order.

If there is a change in the record owner of title to property subsequent to the giving of notice pursuant to this subsection, 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. 1263; Code 2005)

8-404. ABATEMENT; ASSESSMENT OF COSTS. (a) Upon the expiration of 10 days after receipt or publication or other service of the notice required by section 8-403, and in the event that the owner or his or her agent in charge of the premises shall neglect or fail to comply with the requirements of section 8-401, 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.

(b) The public officer or an assistant shall give notice to the owner or his or her agent in charge of such property by restricted mail of the costs of abatement of the nuisance. The notice shall 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, 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. (K.S.A. 12-1617(f); Ord. 1125, Sec. 4)

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. 1125, Sec. 5)

8-406. UNLAWFUL INTERFERENCE. It shall be unlawful for any person to interfere with or to attempt to prevent the public officer or the public officer's authorized representative from entering upon any such lot or piece of ground or from proceeding with such cutting and destruction. Such interference shall constitute a code violation. (Ord. 1125, Sec. 6)

8-407. NOXIOUS WEEDS. (a) Nothing in this article shall affect or impair the rights of the city under the provisions of Chapter 2, Article 13 of the Kansas Statutes Annotated, relating to the control and eradication of certain noxious weeds.

(b) For the purpose of this section, the term noxious weeds shall mean kudzu (*Pueraria lobata*), field bindweed (*Convolvulus arvensis*), Russian knapweed (*Centaurea picris*), hoary cress (*Lepidium draba*), Canada thistle (*Cirsium arvense*), quackgrass (*Agropyron repens*), leafy spurge (*Euphorbia esula*), burragweed (*Franseria tomentosa* and *discolor*), pignut (*Hoffmannseggia densiflora*), musk (nodding) thistle (*Carduus nutans* L.), and Johnson grass (*Sorghum halepense*), and sericea lespedeza (*Lespedeza cuneata*). (K.S.A. 2-1314; Ord. 1125, Sec. 7; Code 2002)

ARTICLE 5. RODENT CONTROL

- 8-501. DEFINITIONS. For the purposes of this article, the following words and phrases shall have the following meanings:
- (a) 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.
- (b) 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.
- (c) Owner. The owner of any building or structure, whether individual, firm, partnership or corporation.
- (d) Rat harborage. Any condition which provides shelter or protection for rats, thus favoring their multiplication and continued existence in, under or outside a structure of any kind.
- (e) 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. (Code 1990)
- 8-502. 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. (Code 1990)
- 8-503. 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. (Code 1990)
- 8-504. 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. (Code 1990)

- 8-505. 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. (Code 1990)
- 8-506. 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. (Code 1990)
- 8-507. 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 which 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 in order to facilitate the eradication of rats in a reasonable time and thereby to reduce the cost of such eradication. (Code 1990)
- 8-508. INSPECTIONS. The building inspector 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. (Code 1990)

ARTICLE 6. INSURANCE PROCEEDS FUND

- 8-601. 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, arising out of any fire, explosion, or windstorm, where the amount recoverable for the loss or damage to the building or other structure under all policies is in excess of 75 percent of the face value of the policy covering such building or other insured structure, unless there is compliance with the procedures set out in this article. (Code 1998)
- 8-602. 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, caused by or arising out of any fire, explosion, or windstorm, where the amount recoverable for all the loss or damage to the building or other structure under all policies is in excess of 75 percent of the face value of the policy(s) covering such building or other insured structure. The lien arises upon any unpaid tax, special ad valorem levy, or any other charge imposed upon real property by or on behalf of the city which is an encumbrance on real property, whether or not evidenced by written instrument, or such tax, levy, assessment, expense or other charge that has remained undischarged for at least one year prior to the filing of a proof of loss.
(Code 1998)
- 8-603. SAME; ENCUMBRANCES. Prior to final settlement on any claim covered by section 8-602, the insurer or insurers shall contact the county treasurer, Ellis 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, Ellis County, Kansas. (Code 1998)
- 8-604. 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. (Code 1998)
- 8-605. PROCEDURE. (a) When final settlement on a covered claim has been agreed to or arrived at between the named insured or insureds and the company or companies, and the final settlement exceeds 75 percent of the face value of the policy covering any building or other insured structure, and when all amounts due the holder of a first real estate mortgage against the building or other structure, pursuant to the terms of the policy and endorsements thereto, shall have been paid, the insurance company or companies shall execute a draft payable to the city treasurer in an amount equal to the sum of 15 percent of the covered claim payment, unless the chief building inspector of the city has issued a certificate to the insurance company or companies that the insured has removed the damaged building or other structure, as well as all associated debris, or repaired, rebuilt, or otherwise made the premises safe and secure.

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

(c) Upon the transfer of the funds as required by subsection (a) of this section, the insurance company shall provide the city with the name and address of the named insured or insureds, the total insurance coverage applicable to said building or other structure, and the amount of the final settlement agreed to or arrived at between the insurance company or companies and the insured or insureds, whereupon the chief building inspector shall contact the named insured or insureds by certified mail, return receipt requested, notifying them that said insurance proceeds have been received by the city and apprise them of the procedures to be followed under this article. (Code 2002)

8-606. FUND CREATED; DEPOSIT OF MONEYS. The city treasurer is hereby authorized and shall create a fund to be known as the "Insurance Proceeds Fund." All moneys received by the city treasurer as provided for by this article shall be placed in said fund and deposited in an interest-bearing account. (Code 1998)

8-607. BUILDING INSPECTOR; INVESTIGATION, REMOVAL OF STRUCTURE.

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

(b) Within 20 days of the receipt of said moneys, the chief building inspector shall determine, after prior investigation, whether the city shall instigate proceedings under the provisions of K.S.A. 12-1750 *et seq.*, as amended.

(c) Prior to the expiration of the 20 days established by subsection (b) of this section, the chief building inspector shall notify the city treasurer whether he or she intends to initiate proceedings under K.S.A. 12-1750 *et seq.*, as amended.

(d) If the chief building inspector has determined that proceedings under K.S.A. 12-1750 *et seq.*, as amended shall be initiated, he or she will do so immediately but no later than 30 days after receipt of the moneys by the city treasurer.

(e) Upon notification to the city treasurer by the chief building inspector that no proceedings shall be initiated under K.S.A. 12-1750 *et seq.*, as amended, the city treasurer shall return all such moneys received, plus accrued interest, to the insured or insureds as identified in the communication from the insurance company or companies. Such return shall be accomplished within 30 days of the receipt of the moneys from the insurance company or companies. (Code 1998)

8-608. REMOVAL OF STRUCTURE; EXCESS MONEYS. If the chief building inspector has proceeded under the provisions of K.S.A. 12-1750 *et seq.*, as amended, all moneys in excess of that which is ultimately necessary to comply with the provisions for the removal of the building or structure, less salvage value, if any, shall be paid to the insured. (Code 1998)

8-609. SAME; DISPOSITION OF FUNDS. If the chief building inspector, with regard to a building or other structure damaged by fire, explosion, or windstorm, determines that it is necessary to act under K.S.A. 12-1756, any proceeds

received by the city treasurer under the authority of section 8-605(a) relating to that building or other structure shall be used to reimburse the city for any expenses incurred by the city in proceeding under K.S.A. 12-1756. Upon reimbursement from the insurance proceeds, the chief building inspector shall immediately effect the release of the lien resulting therefrom. Should the expenses incurred by the city exceed the insurance proceeds paid over to the city treasurer under section 8-605(a), the chief building inspector shall publish a new lien as authorized by K.S.A. 12-1756, in an amount equal to such excess expenses incurred. (Code 1998)

8-610. 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. (Code 1998)

8-611. 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. (Code 1998)

ARTICLE 7. HOUSING AUTHORITY

- 8-701. **CREATED.** There is hereby created a housing authority for the City of Ellis to be known and designated as the Housing Authority of the City of Ellis, Kansas, hereinafter called the authority. (Res. 258, Sec. 1)
- 8-702. **POWERS AND DUTIES.** The city hereby delegates to the authority all powers conferred on the city pursuant to the Municipal Housing Law and any amendments thereto including the power to construct, maintain, operate, and manage any housing project or projects of the city and the power to issue bonds, notes, interim certificates, or other obligations to acquire real property and exercise the power of eminent domain. (Res. 258, Sec. 2)
- 8-703. **EXECUTION OF CONTRACTS AND BONDS.** The authority shall not execute any contracts or issue any bonds of any kind unless the terms and conditions and issue of the contract or contracts and bonds are subject of and included in a cooperative agreement or agreements by and between the governing body of the city and the authority. (Res. 258, Sec. 3)
- 8-704. **EMPLOYEES.** The authority may employ an executive director, technical experts and such other officers, agents and employees, permanent and temporary, as it may require, and to delegate to one or more of its agents or employees such powers or duties as the authority may deem proper. (Res. 258, Sec. 4)
- 8-705. **APPOINTMENTS; OFFICERS.** (a) The authority shall consist of five commissioners to be appointed by the mayor with the consent of the council. The commissioners who are first appointed pursuant to this act shall be designated to serve one for one year, one for two years, one for three years and two for four years each, from the date of their appointment, but thereafter commissioners shall be appointed as aforesaid for a term of office for four years except that all vacancies shall be filled for the unexpired term, all such appointments to be made by the official or body making the original appointment. Each commissioner shall hold office until his or her successor has been appointed and has qualified. A certificate of the appointment or reappointment of any commissioner shall be filed with the authority and this certificate shall be conclusive evidence of the due and proper appointment of the commissioner.
 (b) The commissioners of the authority shall elect a chairperson and vice chairperson from among the commissioners.
(Res. 258, Secs. 5:7)
- 8-706. **COMPENSATION.** A commissioner shall receive no compensation for his or her services, but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his or her duties. (Res. 258, Sec. 6)
- 8-707. **MEETINGS; QUORUM.** Three commissioners shall constitute a quorum of such authority for the purpose of conducting its business and exercising its powers and for all other purposes, notwithstanding the existence of any vacancies. Action may be taken by the authority upon a vote of a majority of the commissioners present, unless in any case the bylaws of the authority shall require a larger

number. Meetings of the commissioners of the authority may be held anywhere within the perimeter boundaries of the area of operation of the authority or within any additional area where the authority is authorized to undertake a project.
(Res. 258, Sec. 7)

CHAPTER IX. MUNICIPAL COURT

Article 1. General Provisions

ARTICLE 1. GENERAL PROVISIONS

- 9-101. MUNICIPAL COURT ESTABLISHED. There is hereby established a municipal court for the City of Ellis, Kansas. The municipal court shall have jurisdiction to hear and determine cases involving violations of the ordinances of the city. (Code 1990)
- 9-102. SAME; PRACTICE AND PROCEDURE. The Kansas code of procedure for municipal courts, as set forth in K.S.A. 12-4101 et seq. and all acts amendatory or supplemental thereto shall govern the practice and procedure in all cases in the municipal court. (Code 1990)
- 9-103. TIME AND PLACE OF SESSIONS. Municipal court shall be held in the municipal courtroom in the city hall building on such days and at such hours as the municipal judge designates. (Code 1990)
- 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. (C.O. No. 9, Sec. 3; Code 1990)
- 9-105. SAME; ABSENCE; VACANCY; PRO TEM. 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.
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; Code 1990)
- 9-106. SAME; POWERS AND DUTIES. The municipal judge shall have such powers and duties as set forth in the Kansas code of procedure for municipal courts (K.S.A. 12-4101 et seq.) and all acts amendatory or supplemental thereto. (Code 1990)
- 9-107. SAME; SALARY. The municipal judge shall receive a salary as shall be fixed by ordinance. (Code 1990)

- 9-108. COURT CLERK. There is hereby established the office of the clerk of the municipal court of the City of Ellis, Kansas, which office shall be filled by appointment by the municipal judge of the municipal court. The duties of the office shall be those prescribed by the Code for Municipal Courts set forth in Chapter 12, Article 41 of the Kansas Statutes, and shall include the following duties:
- (a) The clerk shall issue all process of the court, administer oaths, file and preserve all papers, docket cases and set same for trial and shall perform such further acts as may be necessary to carry out the duties and responsibilities of the court. The clerk shall receive, account for and pay to the city treasurer monthly all fines and forfeited bonds paid into the court. The clerk shall make reports to the judicial administrator and furnish the information when requested by him, her or a departmental justice on such forms furnished by the judicial administrator, and approved by the supreme court.
 - (b) The clerk of the municipal court shall within 10 days after selection and before entering upon the duties of office, execute to the city such bond as the governing body may require, which shall be approved by the governing body, and file in the office of the city clerk, conditioned for the faithful performance of the duties required of him or her by law, and for the faithful application and payment of all moneys that may come into his or her hands in the execution of the duties of the office. The city shall pay the cost of such bond.
 - (c) The monthly salary of the clerk shall be fixed by ordinance.
 - (d) A majority of all members of the council may remove the clerk appointed under the authority of this article, or for good cause the mayor may temporarily suspend any such appointed clerk.
- (Code 1990)
- 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.
- (Code 1990)
- 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. (Code 1990)
- 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 subsection (a), 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 subsection (b) of this section.

(d) Failure to appear, upon conviction thereof, shall be punishable by incarceration for up to 30 days and/or a fine of up to \$250.00.

(Code 1990)

9-112.

COURT COSTS. In all municipal court cases in the municipal court of the city where accused person or persons pleads guilty or nolo contendere, or is found guilty of a violation of the ordinances of the city, court costs in the amount of \$25.00 shall be assessed for the administration of justice in the municipal court. Said costs shall be in addition to any costs or fees mandated from time to time by the State of Kansas or any other governmental agency.

(C.O. No. 19, Ord. 1093, Sec. 1)

CHAPTER X. POLICE

- Article 1. Police Department
- Article 2. Property in Police Custody
- Article 3. Police Fees

ARTICLE 1. POLICE DEPARTMENT

- 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 Charter Ordinance No. 9. (C.O. No. 9, Sec. 3; Code 1990)
- 10-102. **LAW ENFORCEMENT PERSONNEL; GENERAL DUTIES.** 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.
- 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 of Kansas or laws of the city and to keep all persons so arrested, unless admitted to bail, in the county jail or other proper place to prevent their escape until their trial can be had before the proper officer.
- 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. (Code 1968, 1-321:322, 10-104; Code 1990)
- 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. (Code 1968, 1-321, 10-102; Code 1990)

ARTICLE 2. PROPERTY IN POLICE CUSTODY

- 10-201. REGULATIONS. The police department is required to establish regulations detailing the collection, storage, and inventory of property which may come under its control by any manner. (Code 1990)
- 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 section 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. (Code 1990)
- 10-203. SAME; EXEMPT PROPERTY. The following classes of property shall be considered exceptions to section 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 section 10-202.
 - (b) Firearms which are available for disposition may be dealt with in the following manner:
 - (1) If compatible with law enforcement usage, they may be turned over to the police department inventory.
 - (2) They may be sold to a firearms dealer who maintains the appropriate federal firearms license.
 - (3) They may be destroyed.
 - (4) In no case shall firearms be sold at public auction.
 - (c) Other weapons such as knives, etc., which are deemed to have a legitimate value may be sold at auction, however, homemade weapons or weapons of a contraband nature shall be destroyed.
 - (d) Any items determined to be contraband such as explosives, narcotics, etc., shall be destroyed.
 - (e) Items of a pharmaceutical nature, which, while not contraband when properly dispensed, or which are of an over-the-counter-variety, shall be destroyed.
 - (f) Foodstuffs, if sealed and undamaged may be turned over to any appropriate social service agency or destroyed, but shall not be auctioned.
 - (g) Alcohol products such as beer, wine, whiskey, etc., shall be destroyed.
 - (h) Items with a value in excess of \$500.00 may be sold after advertising said item in a general circulation newspaper on at least two occasions. Such sales shall be by closed bid. (Code 1990)
- 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. (Code 1990)

- 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. (Code 1990)
- 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 prior to 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 prior to the start of the auction. (Code 1990)

ARTICLE 3. POLICE FEES

10-301. FEE FOR POLICE RESPONSES TO PARTY. Definitions. As used in this article, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

(a) 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.

(b) 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.

(c) 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 fees.

(d) 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. (Code 1990)

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 that 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. (Code 1990)

10-303. SUBSEQUENT POLICE RESPONSES TO PARTIES, GATHERINGS OR EVENTS; LIABILITY. If, after a written notice is issued pursuant to section 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.

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. (Code 1990)

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. (Code 1990)

CHAPTER XI. PUBLIC OFFENSES

Article 1. Uniform Offense Code

Article 2. Local Regulations

Article 3. Curfew Violations

ARTICLE 1. UNIFORM 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 of Ellis Kansas, that certain code known as the "Uniform Public Offense Code," Edition of 2009, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, no fewer than three (3) copies of said Uniform Public Offense Code shall be marked or stamped "Official Copy of the City of Ellis", 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. (Code 2009)

ARTICLE 2. LOCAL REGULATIONS

- 11-201. WINDOW PEEPING. It shall be unlawful for any person to trespass upon the property owned or occupied by another for the purpose of looking into or peeping into any window, door, skylight or other opening any house or building occupied by any person. (Code 1968, 11-209)
- 11-202. BOATS ON BIG CREEK; HORSEPOWER LIMITATION; PROHIBITED OPERATION NEAR DAM SITE. (a) Only rowboats, motorboats, rafts, or boats of other description having a horsepower rating of five or less horsepower will be allowed to operate on Big Creek within the city limits.
(b) No rowboat, motorboat, raft, or boats of any other description will be allowed to operate within a distance of 100 feet from the dam site, located in the city.
(c) In no circumstances shall any boat create a wake.
(d) Any person violating any of the provisions of this section shall, upon conviction thereof, be punished as provided in section 1-116 of this code.
(Code 1968, 11-407; Code 1990)
- 11-203. ENTERING MUNICIPAL SWIMMING POOL AREA DURING HOURS WHEN OFFICIALLY CLOSED. It shall be unlawful for any person to enter upon the premises constituting the Ellis Municipal Swimming Pool area when the same is officially closed to the public, and the Ellis Municipal Swimming Pool area shall be officially closed to the public at all times except during such periods of time as the pool is designated by the person or persons responsible for the management of the swimming pool areas as being open. (Code 1968, 11-408)
- 11-204. OUTDOOR BROADCASTING FOR BUSINESS OR COMMERCIAL PURPOSES PROHIBITED. It shall be unlawful without consent of mayor or city council for any person to use, operate or permit to be used, operated or placed in or upon any building or structure or any vehicle a sound reproducing or broadcasting device for outdoor broadcasting of music, voice or other sound on any street or in any public place for commercial or business advertising purposes, or for the purpose of calling attention of the public to any commercial or business products, services, or enterprises. (Code 1968, 11-710)
- 11-205. POLICE DOGS; MISTREATING. It shall be unlawful for any person to willfully or maliciously torture, beat, kick, strike, mutilate, injure, disable or kill any dog used by the police department of the city in the performance of the functions or duties of such department, or to interfere with or meddle with any such dog while being used by the department or any officer or member thereof in the performance of any of the functions or duties of the department or of such officer or member.
(Code 1968, 11-711)
- 11-206. ABANDONED ICEBOXES, REFRIGERATORS. Any person abandoning or discarding in any public or private place accessible to children any chest, closet, piece of furniture, refrigerator, icebox or other article having a compartment of a capacity of one and one-half cubic feet or more and having a door or lid, or any

person who being the owner, lessee or manager of such place, knowingly permits such abandoned or discarded article to remain in such condition shall, upon conviction thereof, be punished as provided in section 1-116. (Code 1968, 11-713)

11-207. UNDER-AGE CONSUMPTION OF ALCOHOLIC LIQUOR OR CEREAL MALT BEVERAGE. (a) Definitions. All terms and words and utilized in this article shall be defined in the same manner as they are in K.S.A. 41-102, and amendments thereto.

(b) Offense. Except with regard to the serving of alcoholic liquor or cereal malt beverages as permitted by Kansas state law, specifically K.S.A. 41-308a, 41-308d, 41-2610 or 41-2704, and amendments thereto, no person who has reached the age of 18 years but is under 21 years of age shall possess, consume, obtain, purchase, or attempt to obtain or purchase alcoholic liquor or cereal malt beverage except as authorized by law. (Ord. 115, Secs. 1:2)

11-208. NOISES AND LOUD SOUNDS. (a) Unreasonable Noise Prohibited. It is unlawful for any person to make or allow to be made within the city limits any excessive, unnecessary, unusual, disturbing, or loud noise, which creates a nuisance or injuries or affects the comfort, health, and safety of others, or interferes with the use or enjoyment of property of any other person, unless the making of such noise is necessary for the protection and preservation of property or the health and safety of individuals in the city.

(b) Noise Nuisances. The following acts, which enumeration shall not be deemed to be exclusive, are hereby declared to be noise nuisances and a violation of this section.

(1) The playing or permitting of the playing of any radio, television, phonograph, loudspeaker, drum, juke box, auto stereo, musical instrument, sound system, sound amplifier of any kind, or device which produces or amplifies sound, when done in such a manner or with such volume or with continued duration so as to annoy, distress, or disturb the quiet comfort of persons or the peaceful enjoyment of property within the vicinity.

(2) The use of any motor vehicle, of any kind, so out of repair, or in such a manner to create loud or unnecessary noise which may annoy, distress or disturb the quiet comfort and peaceful enjoyment of any persons within the vicinity.

(3) The construction, excavation, demolition, alteration, or repair work of any building or property, by use of any power tools or power equipment used in the construction, excavation, drilling, demolition, alteration, or repair work other than between the hours of 7:00 a.m. and 10:00 p.m.

(4) Any loud, excessive, unnecessary, unusual, disturbing, or distressing noises, when produced may be clearly heard from a distance of 50 feet or more. The measurement standard shall be the normal auditory senses, of a reasonable person (words or phrases need not be discernible).

(c) Exceptions. The following activities, so long as they are conducted between the hours of 7:00 a.m. and 10:00 p.m., as a normal function of a permitted use, and the equipment is maintained in proper working order, are excepted from the provisions of this article:

- (1) Lawn maintenance.
- (2) Repair of personal use vehicle.

- (3) Temporary stand-by power generators.
- (4) Noise caused by operators of the city utilities, refuse company, and city maintenance employees.
- (5) Emergency vehicles or sirens and emergency work by city employees at any time of day.
- (d) Law Enforcement. The law enforcement officers of the city, and contract law enforcement officers shall have the power to enforce the provisions of this section. (Ord. 1169, Secs. 1:4; Code 2002)

11-209. SAME; PENALTY. Violation of this article shall be punishable by a fine not to exceed \$500.00 and/or imprisonment not to exceed one month. The minimum fine imposed for violation of this article shall be \$200.00. In addition to the other penalties provided for a violation of this article, the offender may be ordered to do any or all of the following:

- (a) Perform 40 hours of public service;
- (b) Attend and satisfactorily complete a suitable education or training program dealing with the effect of alcohol or other chemical substances when ingested by humans;
- (c) Order the offender to submit to and complete an alcohol and drug evaluation by community-based alcohol and drug safety action program and to pay the fee for such evaluation, and to comply with the evaluation's recommendations.

This section shall not apply to the possession and consumption of alcohol or cereal malt beverage by a person under the legal age for consumption of alcohol or cereal malt beverage if such possession and consumption is permitted, furnished, and directly and continuously supervised by the person's parent or legal guardian. (Ord. 1105, Sec. 3)

11-210. SAME. (a) All acts declared unlawful under the ordinances of the city which are not subject to specific penalty provisions contained within the Book of Ordinances, and which are not a part of the Uniform Public Offense Code for Kansas Cities as it is now, or may be enacted, will be subject to the penalty provisions contained in this article.

(b) Upon conviction of any offense of the type specified in subsection (a), the court shall sentence the convicted offender to a term of confinement in the city or county jail for a term not to exceed 30 days, or shall sentence the convicted offender to pay a fine of up to \$500.00, or both.

(c) In the case of offenses of a continuing nature that are subject to this statute, unless otherwise provided each day such offense continues shall be a separate and distinct offense subject to the above punishments. (Ord. 1130, Secs. 1:3)

11-211. PUBLIC URINATION; DEFECATION; PENALTY. (a) No person shall urinate or defecate in or upon any place open to the public or exposed to the public view, including the street, sidewalks, alleys, plazas, parks, parking lots, private property, and public buildings located within the city. This section shall not apply to urination or defecation utilizing fixtures in any public or private restroom or other facility designed for the sanitary disposal of human waste.

(b) A conviction of violation of this section is an unclassified offense. The defendant may be fined up to a maximum fine of \$500.00 and sentenced to a maximum term of 30 days in jail. (Ord. 1256, Secs. 1:2; Code 2007)

ARTICLE 3. CURFEW VIOLATIONS

11-301. CURFEW; DEFINITIONS. For the purposes of this Article, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular and words in the singular number include the plural. The word "shall" is always mandatory and not merely directory.

(a) City - is the City of Ellis, Kansas, with administrative offices at 815 Jefferson, Ellis, Kansas 67637.

(b) Emergency - means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, natural disaster, or automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

(c) Establishment - means any privately-owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

(d) Juvenile or minor - is any un-emancipated person under the age of eighteen (18) years.

(e) Operator - is any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

(f) Parent - is any person having legal custody of a juvenile (i) as a natural or adoptive parent, (ii) as a legal guardian, (iii) as a person who stands in loco parentis, or (iv) as a person to whom legal custody has been given by court order.

(g) Public Place - means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, common areas of schools, shopping centers, parking lots, parks, playgrounds, transportation facilities, theaters, restaurants, shops, bowling alleys, taverns, cafes, arcades, and similar areas that are open to the use of the public. As a type of public place, a street is a way or place, of whatever nature, open to the use of the public as a matter of right for purposes of vehicular travel or in the case of sidewalk thereof for pedestrian travel. "Street" includes that legal right of way, including but not limited to the cartway of traffic lanes, the curb, the sidewalks whether paved or unpaved, and any grass plots or other grounds found within the legal right of way of a street.

(h) Remain - means to stay behind, to tarry and to stay unnecessarily in a public place including the congregating of groups (or of interacting minors) totaling four or more persons in which any juvenile involved would not be using the streets for ordinary or serious purposes such as mere passage or going home, or to fail to leave the premises of an establishment when requested to do so by a police officer or the operator of an establishment. To implement this provision with additional precision and precaution, numerous exceptions are expressly defined in the Ordinance. More and more exceptions become available with a juvenile's increasing years and advancing maturity as appropriate in the interest of reasonable regulation.

(i) Years of Age - continues from one birthday, such as the sixteenth to (but not including the day of) the next, such as the seventeenth birthday, making it clear that sixteen or less years of age is herein treated as equivalent to the phrase "under seventeen years of age," the latter phrase in practice, unfortunately, having confused a number of persons into the mistaken thought that seventeen (17) year olds might be involved. Similarly, for example, 11 or less years of age means "under 12 years of age."
(Ord. 1189, Sec. 1; Code 2005)

11-302. SAME; CURFEW FOR JUVENILES. It shall be unlawful for any person under the age of eighteen (18) years to be or remain in or upon a public place within the City of Ellis during the period ending at 5:00 a.m. and beginning at midnight every night. (Ord. 1189, Code 2005)

11-303. SAME; EXCEPTIONS. The following shall constitute valid exceptions to the operation of this Article:

(a) When a juvenile is accompanied by a parent of such juvenile.

(b) When a juvenile is accompanied by an adult authorized by a parent of such juvenile to take said parent's place in accompanying said juvenile for a designated period of time and purpose within a specified area.

(c) When the juvenile is on an errand as directed by her/his parent until the hour of 12:30 a.m.

(d) When a juvenile is exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly, by first delivering to the person designated by the City's Chief of Police to receive such information a written communication, signed by the juvenile and countersigned, if practicable, by a parent of the juvenile with their home address and telephone number, specifying when, where and in what manner the juvenile will be in a public place during hours when the Ordinance is applicable to said minor in the exercise of a First Amendment right specified in such communication.

(e) In case of reasonable necessity for the juvenile remaining in a public place but only after the juvenile's parent has communicated to the Chief of Police or the person designated by the Chief of Police to receive such notifications the facts establishing the reasonable necessity relating to a specified public place at a designated time for a described purpose including points of origin and destination. A copy of the communication, or of the police record thereof, duly certified by the Chief of Police to be correct, with an appropriate notation of the time it was received and of the names and addresses of the parent and juvenile, shall be admissible evidence.

(f) When a juvenile is on the sidewalk or property where the juvenile resides, or on either side of or across the street from the place where the juvenile resides and the adult owner or resident of that property has given permission for the juvenile to be there.

(g) When a juvenile is returning home by a direct route (without any unnecessary detour or stop) from and within one (1) hour of the termination of a school activity or an activity of a religious or other voluntary association, or a place of public entertainment, such as a movie, play or sporting event. If the event is not commercial in nature or does not have a fixed, publicly known time at which it will

or does end, the sponsoring organization must register the event with the Chief of Police (or his assigned representative) at least 24 hours in advance, informing the Police Department of the time that such event is scheduled to begin, the place at which it shall be held, the time at which it shall end, and the name of the sponsoring organization.

(h) When authorized, by special permit from the Chief of Police carried on the person of the juvenile thus authorized, as follows. When necessary nighttime activities of a juvenile may be inadequately provided for by other provisions of this Ordinance, then recourse may be had to the Chief of Police, either for a regulation as provided in subsection (i) or for a special permit as the circumstances warrant. Upon the findings of reasonable necessity for the use of a public place to the extent warranted by a written application signed by a juvenile and by a parent of the juvenile, if feasible, stating (1) the name, age and address of the juvenile; (2) the name, address, and telephone number of a parent thereof; (3) the height, weight, sex, color of eyes and hair and other physical characteristics of the juvenile; (4) the necessity that requires the juvenile to remain upon a public place during the curfew hours otherwise applicable; (5) the public place; and (6) the beginning and ending of the period of time involved by date and hour, the Chief of Police may grant a permit in writing for the juvenile's use of a public place at such hours as in the opinion of the Chief of Police may reasonably be necessary and consistent with the purposes of this Ordinance. In an emergency this may be handled by telephone or other effective communication, with a corresponding record being made contemporaneously to the Chief of Police or to the person designated by the Chief of Police to act on her/his behalf in an emergency, at the police station.

(i) When authorized, by regulation issued by the Chief of Police in other similar cases of reasonable necessity, similarly handled but adapted to reasonably necessary night-time activities of more juveniles than can readily be dealt with on an individual special permit basis, Normally such regulation by the Chief of Police permitting use of public places should be issued sufficiently in advance to permit appropriate publicity through news media and through other agencies such as the schools, and shall define the activity, the scope of the use of the public places permitted, the period of time involved not to extend more than one (1) hour beyond the time for termination of the activity, and the reason for finding that the regulation is reasonably necessary and is consistent with the purposes of this Ordinance.

(j) When the juvenile is legally employed and carries a certified card of employment, renewable each calendar month when the current facts so warrant, dated or re-issued not more than 45 days previously, signed by the Chief of Police and briefly identifying the juvenile, the addresses of the juvenile's home and of the juvenile's place of employment, and the juvenile's hours of employment.

(k) When the juvenile is, with parental consent, engaged in normal interstate travel through the City or originating or terminating in the City.

(l) When the juvenile is married or has been married pursuant to state law.

(m) In the case of an operator of an establishment, when the operator has notified the police that a juvenile was present on the premises of the establishment during curfew hours and refused to leave.

(n) Each of the foregoing exceptions, and their several limitations such as provisions for notification, are severable, as hereinafter provided, but herein reemphasized, and will be considered by Council when warranted by future

experience illuminated by the view of student government associations, school personnel, citizens, associations parents, officers and persons in authority concerned positively with juveniles as well as with juvenile delinquency. (Ord. 1189, Sec. 3; Code 2005)

11-304. PARENTAL RESPONSIBILITY. (a) It shall be unlawful for a parent having legal custody of a juvenile knowingly to permit or by inefficient control to allow the juvenile to remain in any City public place under circumstances not constituting an exception to, or otherwise beyond the scope of the Article.

(b) The term "knowingly" includes knowledge that a parent should reasonably be expected to have concerning the whereabouts of a juvenile in that parent's legal custody. This requirement is intended to hold a neglectful or careless parent up to a reasonable community standard of parental responsibility through an objective test. It shall, therefore, be no defense that a parent was completely indifferent to the activities or conduct or whereabouts of such juvenile. (Ord. 1189, Sec. 4; Code 2005)

11-305. OPERATOR RESPONSIBILITY. It shall be unlawful for any operator of an establishment to knowingly permit a juvenile to remain at the establishment under circumstances not constituting an exception to, or otherwise beyond the scope of this Article. The term "knowingly" includes knowledge that an operator should reasonably be expected to have concerning the patrons of the establishment. The standard for "knowingly" shall be applied through an objective test: whether a reasonable person in the operator's position should have known that the patron was a juvenile in violation of this Article. (Ord. 1189, Sec. 1; Code 2005)

11-306. ENFORCEMENT PROCEDURES. (a) If a police officer reasonably believes that a juvenile is in a public place in violation of This Article, the officer shall notify the juvenile that she/he is in violation of this Article and shall require the juvenile to provide his/her name, address and telephone number and how to contact his/her parent or guardian. In determining the age of the juvenile and in the absence of convincing evidence such as a birth certificate, a police officer shall, in the first instance of violation of the Ordinance, use his/her best judgment in determining age.

(b) The police officer shall issue the juvenile a written warning that the juvenile is in violation of this Article and order the juvenile to go promptly home. The Chief of Police shall send the parent or guardian of the juvenile written notice of the violation pursuant to subsection (1).

(c) Police procedures shall constantly be refined in the light of experience and may provide that the police officer may deliver to a parent or guardian thereof a juvenile under appropriate circumstances; for example, a juvenile of tender age, near home, whose identity and address may readily be ascertained or are known.

(d) Notwithstanding paragraph (b) of this Section, when: (i) a juvenile has received one (1) previous written warning for violation of this Ordinance; or (ii) a police officer has reasonable grounds to believe that the juvenile has engaged in delinquent conduct, the procedure shall then be to take the juvenile to the police station where a parent or guardian shall immediately be notified to come for the juvenile whereupon the parent or guardian and the juvenile shall be questioned. This is intended to permit ascertainment, under constitutional safeguards, of

relevant facts, and to centralize responsibility in the person designated there and then on duty for accurate, effective, fair, impartial and uniform enforcement, and recording, thus, making available experienced personnel and access to information and records.

(e) When a parent or guardian, immediately called, has come to take charge of the juvenile, and the appropriate information has been recorded, the juvenile shall be released to the custody of such parent. If the parent cannot be located or fails to take charge of the juvenile, then the juvenile shall be released to the juvenile authorities, except to the extent that in accordance with police regulations, approved in advance by juvenile authorities, the juvenile may temporarily be entrusted to an adult, neighbor or other person who will on behalf of a parent or guardian assume the responsibility of caring for the juvenile pending the availability or arrival of a parent or guardian.

(f) In the case of a first violation of the Ordinance by a juvenile, the Chief of Police shall by certified mail send to a parent or guardian written notice of the violation with a warning that any subsequent violation will result in full enforcement of the Ordinance, including enforcement of parental responsibility and of applicable penalties.

(g) For the first violation of the Ordinance by an operator of an establishment who permits a juvenile to remain on the premises, a police officer shall issue a written notice of the violation with a warning that any subsequent violation will result in full enforcement of the Ordinance, including enforcement of operator responsibility and of applicable penalties.

(h) In any event the police officer shall, within 24 hours, file a written report with the Chief of Police or shall participate to the extent of the information for which he is responsible in the preparation of a report of the curfew violation, it is not the intention of this Section to require extensive reports that will prevent police officers from performing their primary police duties. The reports shall be as simple as is reasonably possible and may be completed by police departmental personnel other than sworn police officers. (Ord. 1189; Code 2005)

11-307.

SAME; PENALTIES. (a) If after the warning notice pursuant to Section 6 of a first violation by a juvenile, a parent violates Section 4 (in connection with a second violation by the juvenile), this shall be treated as a first offense by the parent. For the first offense by a parent, the fine shall be \$100.00, and for each subsequent offense by a parent the fine shall be increased by an additional \$50.00, e.g., \$150.00 for the second offense, \$200.00 for the third offense. The Judge of the Municipal Court of the City of Ellis, upon finding a parent guilty, shall sentence the parent to pay this fine and the cost of prosecution.

(b) The parent or legal guardian having custody of a juvenile subject to this Article shall be liable for all costs incurred by the City for providing personnel to remain in the company of a juvenile who has been detained as a curfew violator if the parent or guardian does not pick up the juvenile within one hour after receiving notice from the City that the City is detaining the juvenile for a curfew violation. The amount to be paid by the parent or guardian shall be based on the hourly wage of the City employee who is assigned to remain with the juvenile plus the cost of benefits for that employee.

(c) The parent or legal guardian having custody of a juvenile subject to this Article shall be liable for any fine or condition of restitution or reparation imposed

by a court upon a curfew violator, provided that the curfew violator has not paid the fine or made restitution or reparation within the time ordered by the court, and further provided that the parent or legal guardian has been made a party defendant in all enforcement proceedings against the curfew violator and shall be served with all citations, summons, complaints, notices, and other documents required to be served on the curfew violator defendant.

(d) Any juvenile who shall violate any of the provisions of the Article more than three times shall be reported by the Chief of Police to the juvenile authorities as a juvenile in need of supervision and chief of Police may proceed to file such charges with the district courts as he may deem appropriate.

(e) If, after the warning notice pursuant to Section 6 of a violation of the Article, an operator of an establishment violates section 5 a second time, this shall be treated as a first offense by the operator. For the first offense by an operator, the fine shall be \$100.00, and for each subsequent offense by an operator the fine shall be increased by an additional \$50.00, e.g., \$150.00 for the second offense, \$200.00 for the third offense. (Ord. 1189, Sec. 7; Code 2005)

11-308. CONSTRUCTION AND SEVERABILITY. (a) Severability is intended throughout and within the provisions of this Article. If any provision, including any exception, part, phase, or term, or the application thereof to any person or circumstances is held invalid, the application to other persons or circumstances shall not be affected thereby and the validity of this Article in an and all other respects shall not be affected thereby.

(b) Advisory Opinions. The Chief Executive, after consultation with the City attorney, is hereby authorized to give advisory opinions in writing, which shall be binding and shall be adhered to by the police, until this Article is amended in such respect, interpreting terms, phrases, parts or any provisions. Normally such advisory opinions shall be in response to good faith, signed letters addressed to the Chief Executive or to a member of the City Council, questioning the Juvenile Curfew as: (1) ambiguous; (2) having a potentially chilling effect on constitutional rights specifically invoked; or (3) otherwise invalid, in all three categories with respect to proposed conduct definitely described. This administrative remedy must be exhausted prior to presenting to any court a question in any of the three categories. The City Council does not intend a result through the enforcement of this Article that is absurd, impossible of execution or unreasonable. The Council intends that this Article be held inapplicable in such cases, if any, where its application would be unconstitutional under the Constitution of the State of Kansas or the Constitution of the United States of America. (Ord. 1189, Sec. 8; Code 2005)

11-309. RECORD KEEPING RESPONSIBILITY; RECORDS TO REMAIN SECRET; REVIEW AND DESTRUCTION OF RECORDS. It shall be the duty of the police department of the city to maintain records of those minors having been stopped by police officers, and of those parents or legal guardians having been informed of this article. Such records shall include the name of the minor stopped and questioned, the name of the parent or legal guardian who was located and informed the location at which the minor was stopped for questioning and the date on which it occurred. All information pertaining to the minor and not to the parent or legal guardian shall be maintained as privileged and confidential and shall not

be used by the juvenile authorities or by any other agency of government or by any other person except as expressly authorized by this section. (Code 1968, 11-908)

CHAPTER XII. PUBLIC PROPERTY

- Article 1. City Cemetery
- Article 2. City Library
- Article 3. Recreation Commission
- Article 4. Public Parks

ARTICLE 1. CITY CEMETERY

- 12-101. **NAME.** The cemetery grounds of the City of Ellis shall be known as the Mount Hope Cemetery. When the word Cemetery is hereafter used in this article, it shall mean the Mount Hope Cemetery. (Code 2009)
- 12-102. **CEMETERY MANAGEMENT.** The supervision and management of the Cemetery shall be under the direction and control of the governing body of the City of Ellis. The governing body shall have full power and authority to make all rules and regulations and to set all fees necessary and proper respecting the Cemetery as provided by law, which guidelines may at anytime be changed, amended or repealed by a majority vote of the governing body. It shall be the duty of the governing body to have surveyed and plotted from time to time such portions of said Cemetery as necessity requires. Further, until such time as spaces have been sold in any section, the governing body shall have the power and authority to change the survey and plotting of said section. (Code 2009)
- 12-103. **CEMETERY SECRETARY.** The City Clerk shall, by virtue of his or her office, be the Secretary of the Cemetery. He or she shall be the custodian of the Cemetery records and transactions respecting the sale of any grave spaces. Monies received from the sale of Cemetery grave spaces, interment permits and all other Cemetery fees shall be deposited into the City's general fund. He or she shall ensure that an accurate record is kept of the location of the graves on Cemetery maps and in a book to be furnished for that purpose. (Code 2009)
- 12-104. **CEMETERY SEXTON.** It shall be the duty of the mayor, with the consent of the governing body, to appoint a Sexton of the Cemetery. The Sexton shall be charged with the superintending and directing of all improvements in the Cemetery, such as grading, planting, laying out avenues, trimming the plants and trees, and keeping the grounds, lots and avenues in well groomed condition. The Sexton shall have general and immediate control and supervision of all excavating and closing for graves or removal of bodies when requested by any person authorized in this article. He or she shall generally supervise and direct the building of all foundations, vaults, tombs and monuments and shall cause to be constructed the foundation of sufficient size, depths and proper footings and reinforcement to cause footings and bases to last indefinitely. No construction work of any kind on

any interment areas, no curbing or built up lots or planting of trees or shrubbery shall be allowed without supervision of the Sexton. He or she shall see that all monuments and cornerstones on lots are set in the proper places and set properly. He or she shall have general charge of all tools and implements belonging to the Cemetery. (Code 2009)

12-105. APPLICATION OF RULES AND REGULATIONS. All owners of grave spaces, and all persons who may be upon the premises of the Cemetery for any reason, shall be subject to said rules and regulations and amendments or alterations thereto as shall be adopted from time to time by the governing body. (Code 2009)

12-106. GENERAL CONDUCT. It is to be remembered that the Cemetery is sacredly devoted to the interment of the dead and proper decorum within and near the Cemetery shall be mandatory of all individuals at all times. It shall be unlawful for any person willfully to make any unnecessary noise or disturbance in the Cemetery. No obscene language or loud or profane conversations shall be allowed within the boundaries of the Cemetery. No improprieties shall be allowed and the Sexton shall have power to prevent improper assemblages or actions. Anyone found to be in violation of this article shall be fined according to the City's general fine schedule. (Code 2009)

12-107. HOURS. The Cemetery shall be open for visitation between sunrise until one (1) hour after sunset. It shall be unlawful for any person to enter the Cemetery or to drive any motor vehicle or park the same in the Cemetery from one (1) hour after sunset until sunrise. Any person upon the premises in violation of these hours shall be guilty of criminal trespass, provided, however, authorized City personnel may enter the Cemetery during otherwise prohibited hours in the normal course of their assigned duties. Anyone found to be in violation of this article shall be fined according to the City's general fine schedule. (Code 2009)

12-108. ENTERING. No person shall enter or leave the Cemetery except at the gates thereof. Anyone found to be in violation of this article shall be fined according to the City's general fine schedule. (Code 2009)

12-109. CHILDREN. No child shall be permitted within the Cemetery unless accompanied by and in the control of an adult. Anyone found to be in violation of this article shall be fined according to the City's general fine schedule. (Code 2009)

12-110. VEHICLES. Driving vehicles on any part of the Cemetery other than that laid out for roadways is hereby prohibited, except as is required by City personnel, funeral homes, and monument companies to maintain the Cemetery, prepare for services, and install monuments. The City reserves to itself, and to those lawfully entitled thereto, a perpetual right of ingress and egress over grave space for the purpose of passage to and from other grave spaces. The speed limit in all areas of the Cemetery shall not exceed 10 miles per hour (10 mph). Anyone found to be in

violation of this article shall be fined according to the City's general fine schedule. (Code 2009)

12-111. ANIMALS. No animals shall be allowed within the Cemetery unless they are essential to the conduction of a funeral service or interment. Anyone found to be in violation of this article shall be fined according to the City's general fine schedule. (Code 2009)

12-112. FEES. The cost of grave spaces, interment permits, monument setting permits, grave openings, exhumations and any other fee associated with the operation of the Cemetery shall be set by resolution of the governing body as needed. (Code 2009)

12-113. CERTIFICATE OF PURCHASE. Upon the payment to the City Clerk of the purchase price of any grave space or spaces, there shall be issued to such purchaser a certificate under the seal of the city, which shall be signed by the mayor and countersigned by the City Clerk. Such certificates so signed and sealed shall vest in the purchaser, his or her heirs and assigns, a right in fee simple to such grave space or spaces for the sole purpose of human interment, under the regulations of this article. No Cemetery certificate shall be issued for any grave space or spaces until the full purchase price shall have been paid. Sale of Cemetery walkways is prohibited without consent of the governing body and shall be made only to allow a person to be interred next to existing family burials. It shall be the duty of the owner of grave space or spaces in the Cemetery to notify the City Clerk of any change in his or her post office address. Notice sent to the grave space(s) owner at the last address on file in the City Clerk's office shall be considered sufficient and proper legal notification. (Code 2009)

12-114. OWNERSHIP OF SPACES. The governing body may limit the number of grave spaces which may be owned by the same person at the same time. Upon the death of the owner of grave spaces then control of only the vacant grave spaces portion shall pass to the heirs of the owner. Ownership of a grave space shall be required before an interment is permitted or request for exhumation of a body is considered. Ownership may be demonstrated by a certificate of purchase of the space or spaces or a court order establishing heirship of a deceased owner. (Code 2009)

12-115. PERMISSION FOR NON-IMMEDIATE FAMILY INTERMENT. Any owner of a space or spaces may give permission in writing filed with the City Clerk for the interment of anyone other than his or her own immediate family, in his or her grave space or spaces, but not for money or other consideration. The City Clerk shall keep said affidavit for such interment on file with the official Cemetery burial records. (Code 2009)

12-116. REPURCHASE BY CITY. Any grave space or spaces may be repurchased by the City of Ellis for 100% of the original purchase price of each of the space or spaces being repurchased. (Code 2009)

12-117. LOT CARE; ENDOWMENT. Any person desiring to provide for the perpetual care of a lot or lots in the cemetery may pay to the City a sum of money not less than \$50.00 or any multiple thereof, which sum shall be invested by the City as provided by law and the income thereof, expended in beautifying, repairing and keeping in order any designated lot or parcel of land in the cemetery; and which shall be known as the Perpetual Care Fund for the perpetual care of lots in the cemetery; provided that in no case shall any of the funds be depleted or lessened and nothing but the earnings, as accumulated annually shall be expended for any purpose whatsoever, except as specified above. The City Clerk shall be custodian of the perpetual care fund and investment, and shall give bond for double the amount of any Perpetual Care Fund on hand when he or she takes the official oath of office. The Perpetual Care Fund shall, from time to time, be invested in keeping with the provisions of Chapter 1 of the Code. All earnings of the funds shall be used for the care and upkeep of the cemetery lots in the cemetery.

Upon the purchase a cemetery lot(s), Twenty Five (25%) of the proceeds of each sale of all cemetery lots in Mount Hope Cemetery shall be placed in the Perpetual Care Fund. (Code 2009)

12-118. INTERMENT RECORD. The City Clerk shall keep a record of the interment permits issued under the provisions of this article. No interment permit shall be issued until the following information is furnished: Name and address of grave space owner; legal description of grave space in which interment is to be made; name, sex, race, birth date, and death date of person to be interred (and in the case of infants under the age of ten years, the name of one or both parents); name of person applying for permit and his or her relationship to the deceased; name of mortician in charge of remains; type of interment (adult, infant, cremation, or scattering); exterior measurements of vault or urn; date of the interment; and, other such information as may be required by the City.

At the time of issuance of the interment permit, the City Clerk shall calculate all fees for interment and make the necessary arrangements to bill for such fees no later than thirty (30) days following the date of interment. (Code 2009)

12-119. INTERMENT SCHEDULING. Whenever an interment is contemplated, timely notice thereof shall be given to the City Clerk. No interment may be commenced without first obtaining an interment permit from the City Clerk. Interment services shall be scheduled by 12:00 p.m. the previous working day. There will be no interment service scheduled on the Saturday immediately following a City scheduled holiday if said holiday falls on a Friday. Every effort shall be made to schedule the start of an interment service prior to 3:00 p.m. on a business day. No interment shall be scheduled prior to 9:00 a.m. on a business day, except on Mondays, when services shall begin no earlier than 10:00 a.m. No interment service shall take place on Saturday after 12:00 noon, Sundays or holidays, except at a time of emergency, catastrophe, disaster or epidemic, or when immediate interment shall be required by public authorities, or when special permission is granted in writing by the City in cases where it may be expedient for the personal convenience of the family or persons in charge of the interment. In the event of an emergency service, the City will make every effort to accommodate the service,

with the addition of all applicable extra fees. To avoid confusion, interments must be at least one hour apart.

When the instructions from the space owner or his agent regarding the location of an interment space cannot be obtained, or are indefinite, or for any reason the interment space cannot be opened where specified, the Cemetery may, at its discretion, open it in such location as it deems best and proper, so as not to delay the funeral; and the Cemetery shall not be liable for damages on any error so made. (Code 2009)

12-120. **OPENING OF INTERMENTS.** No person except those authorized by the Sexton shall do any digging or excavating for graves. All cremation graves will be made a minimum of four (4) inches wider than both of the exterior dimensions of the urn vault. All graves shall be located at least eighteen (18) inches within the center boundary of the space and centered between the side boundaries of the space. All Size A (adult) shall be at least six (6) feet in depth and Size B (infant) graves shall be at least four (4) feet in depth. All cremations shall be at least two (2) feet in depth. In the case of a cremation interment in a columbarium, the temporary faceplate of the columbarium niche to be used shall be removed not more than two (2) hours prior to the interment services. (Code 2009)

12-121. **VAULTS.** In every earth interment, the casket shall be enclosed in a minimum type, two-piece vault or box constructed of concrete, steel or fiberglass. The use of wooden boxes is prohibited. Cremation urns must be interred in a concrete urn box. (Code 2009)

12-122. **USE OF SPACES.** It shall be unlawful to bury any deceased human body within the corporate limits of the City except it be in the Cemetery, or Saint Mary's Cemetery. Only human bodies shall be interred in the Cemetery. In the regular Cemetery grounds: only one (1) Size A (adult) burial shall be permitted on each grave space, except that one (1) Size A (adult) interment and one (1) cremation may be made on one (1) grave space; two (2) Size B (infant) interments may be made on one (1) grave space; or, two (2) cremations shall be allowed on one (1) space. Only two (2) cremation urns will be allowed per 12" x 12" 12" columbarium niche. In the Baby Island, only one (1) Size B (infant) burial shall be permitted on each grave space. (Code 2009)

12-123. **DISINTERMENT.** Any person desiring to reopen any grave in the Cemetery to disinter or remove a body therefrom shall first obtain a release form from the City Clerk and upon proper application, proof of authority, and payment in advance of all the associated fees required shall be authorized to do so. The release form shall set forth the name of the person interred, the person or persons requesting disinterment, the place where the remains are to be re-interred and such other information as may be required by the City and the signatures of the persons requesting the disinterment thereon shall be verified. An order of the district court for the exhumation of the remains of a deceased person shall be of sufficient application for a release hereunder, and in such case the cost of such exhumation shall be a claim against the county commissioners as provided by law. When the applicant proposes a re-interment in another space in the Cemetery, a service

charge shall be paid in the amount required for an original interment, in addition to the disinterment fee.

The reopening of such grave and removal of such remains shall be under the supervision of the Sexton. Any monuments and other permanent decorations designating the location of an interment shall be removed at the time of disinterment, at the expense of the person or persons requesting the disinterment.

All disinterments shall follow the same scheduling guidelines as interment services, but shall not occur on Saturdays and Sundays. (Code 2009)

12-124. POTTER'S FIELD. A portion of the Cemetery shall be set apart for the burial of the poor, which portions shall be known as "Potter's Field". A minimum burial including a marker showing the name, dates of birth and death, sex and race shall be provided for those without family and poverty stricken, from whatever public funds are available at the time. (Code 2009)

12-125. CLOSING OF INTERMENTS. All closing of grave spaces shall be complete as soon as possible after the conclusion of the interment services. The first one and one-half (1 ½) feet above the coffin shall be filled with sand and the remainder shall be filled with dirt. The dirt shall be tamped until the grave space is level with the grade of the surrounding grounds. Settled graves shall be corrected immediately upon detection. The Sexton shall cause native grass seed to be planted within ninety (90) days after the grave closing, or as soon as the season allows, and the new grave shall be tended as needed until the new grass is established. The temporary face-plate for a columbarium niche shall be attached immediately after the conclusion of the interment services. The permanent face plate shall be attached within thirty (30) days after interment. (Code 2009)

12-126. VANDALISM. It shall be unlawful for any person without authority of the relatives of the deceased or the Sexton to willfully or maliciously to destroy, disturb, remove or attempt to remove any tree, shrub, monument, or other thing placed in the Cemetery, for ornament or otherwise, or in any way to molest or disturb any grave or the improvements placed on the grave space where any interment is located, or with like intent to destroy, disturb or remove any fence by which the Cemetery is enclosed, provided that the Sexton may remove any ornament or other thing placed in the Cemetery if such is an impediment to the maintenance and operation in the Cemetery. Anyone found to be in violation of this article shall be fined according to the City's general fine schedule. (Code 2009)

12-127. DECORATION OF GRAVE SPACES. It is not the intention of the governing body to interfere with the taste of individuals in regard to the style of their monuments and decoration, but in justice to all concerned, the governing body reserves the right to prevent the placing of any structures or objects which shall be deemed injurious to the grounds or general good appearance of the Cemetery. The following rules shall be observed with regard to the decoration of Cemetery grave spaces:

(A) All retaining walls, copings, fences, curbs, structures of stone, brick, cement, wood, or other equally perishable material are prohibited. These structures or enclosures established on any lot previous to the adoption of this

article, which have, in the judgment of the Sexton, become unsightly by reason of neglect or age shall be removed. The owner of the lot will be given notice, if possible, to repair such improvements; and if he/she does not proceed with the repair within a reasonable time, the Sexton will proceed with the removal. (Code 2009)

(B) No elevated mounds shall be built over a grave space above the grade established by the City.

(C) Toys, boxes, banners, balloons, alcoholic or non-alcoholic beverage containers meant as decorations, shells, objects made of glass, wood, tin, porcelain or clay, baskets, and unapproved containers will not be permitted as long-term grave decoration; and when used, they will be removed without notice.

(D) No plantings of any sort shall be made on a grave space. Existing plantings may be removed without notice whenever they become unsightly, diseased, or dangerous, interfere with cemetery maintenance, or encroach upon an adjoining space or walkway.

(E) Flowers, wreaths, and other temporary decorations will be permitted during the grass-mowing season (April 1 until October 31) provided they must be placed in an approved permanent receptacle or hung from an approved permanently mounted shepherds hook.

(F) From November 1 through April 1, artificial and fresh flowers, wreaths, and other temporary decorations are permitted and shall be placed within six (6) inches of the memorial marker and secured in a manner that they will not become dislodged or scattered by the wind. No holes may be dug in and around a grave to support flower vases or any other type of container. All temporary decorations will be removed when faded or unsightly, or during spring clean up after April 1.

(G) Artificial and fresh flowers, wreaths, and other temporary decorations are permitted for Valentine's Day, Easter, Mother's Day, Memorial Day, Father's Day, Independence Day, Veteran's Day, and Christmas Day with four (4) days allowed before the holiday for decorating and four (4) days after for pickup up of decorations. All decorations shall be placed within six (6) inches of the memorial marker and secured in a manner that they will not become dislodged or scattered by the wind. No holes may be dug in and around a grave to support flower vases or any other type of container. After the designated decoration time, all decorations not in approved permanent containers will be removed by the City.

(H) Temporary flags and veteran's emblems will be permitted on Memorial Day and Veteran's Day, provided they shall be placed within six (6) inches of the memorial marker and secured in a manner that they will not become dislodged or scattered by the wind.

(I) No ground cover other than grass is permitted.

(J) The City and its staff shall not be held liable for any disposal or return of any temporary decorations or permanent decorations or plantings.

(K) No permanent urns, decorations, ornaments, organizational emblems, or embellishments such as shepherds hooks, veteran's emblems, decorative statues, or decorative stones shall be permitted on or around a grave space, unless they are permanently anchored in a concrete foundation that is aligned with the monument foundation; PROVIDED that the total foundation, including monument and decorative item does not exceed the maximum foundation length allowed by this article.

(J) Individual permanent benches or chairs are prohibited.

Permanent decorations in existence prior to the adoption of the article which do not comply with the provisions indicated hereinabove shall continue to be allowed unless or until the same become unsightly or injurious in the judgment of the Sexton. Anyone found to be in violation of this article shall be fined according to the City's general fine schedule. (Code 2009)

12-128.

MONUMENT SPECIFICATION. It is not the intention of the governing body to interfere with the taste of individuals in regard to the style of their monuments, but in justice to all concerned, the governing body reserves the right to prevent the placing of monuments which shall be deemed injurious to the grounds or general good appearance of the Cemetery. The following rules shall be observed with regard to the setting of monuments on Cemetery grave spaces:

(A) Cornerstones used for the marking of lots shall be set level with the ground.

(B) Individual mausoleums, full grave space covers, and surface burial vaults are prohibited.

(C) Only one marker shall be placed at any one grave.

(D) All monuments, permanent decorations, and foundations shall be set on the inside edge of the exterior end grave space boundary and parallel to the boundary, level and plumb, except for monuments provided by the U.S. armed services. If said military monument is in addition to the regular monument, then said military monument shall be placed immediately behind the regular monument. No total foundation (for both a monument and any adjacent permanent decorations) shall come closer to each of the side grave space boundaries than six (6) inches. In the case of a double monument placed on two consecutive grave spaces, the total foundation shall not come closer to the exterior two side grave spaces boundaries than six (6) inches. Extensions to an existing foundation for the purpose of providing holders for permanent decorations shall be permitted, provided said foundation extension shall not come closer than six (6) inches to any of the side grave space boundary. No monuments or permanent decorations shall be allowed on the center grave space boundary.

(E) Monuments shall be of a standard commercial design of standard monument construction material, such as marble, granite, and or bronze, and must be placed on good substantial foundations made of concrete.

(F) The foundation for a monument shall be six (6) inches wider and longer than the monument and must rise three (3) inches above ground level. Foundations for single monuments shall be not less than four (4) inches in depth, and for double monuments shall be not less than six (6) inches in depth. All concrete foundations shall be finished and edged. Concrete shall be made with not more than six parts of course sand or gravel and not less than one part of Portland quality cement thoroughly mixed. All foundations shall be constructed under the supervision of the Sexton.

(G) All columbarium faceplates shall be bronze plaques that are ten (10) inches by ten (10) inches. All faceplates shall be lettered in Roman or Condensed Roman lettering. Months of birth and death may need to be abbreviated.

(H) Single monuments for a single space shall not exceed twelve (12) inches in width and twenty-four (24) inches in length and forty-eight (48) inches in height.

Double monuments for two spaces shall not exceed twelve (12) inches in width and thirty-six (36) inches in length and forty-eight (48) inches in height. In the Baby Island, monuments shall not exceed eight (8) inches in width and sixteen (16) inches in length and twenty-four (24) inches in height. Anyone found to be in violation of this article shall be fined according to the City's general fine schedule. (Code 2009)

12-129. MONUMENT PERMIT. All monument companies or parties wishing to erect a monument shall be required to obtain a permit from the City Clerk's office and pay any permit fees PRIOR to beginning any work on any site. The permit shall state the name of the company or contractor proposing to do the work, the type of monument to be installed, the overall dimensions of both the monument and related permanent decorations and the proposed foundation, the name of the owner of the space or spaces the work is to be done on, and the name or names of the individuals to be identified on the monument. A blueprint of the inscriptions and/or artwork to be etched and/or attached to the monument shall be attached to the application. The applicant must date and sign the permit. The City Clerk's office shall confirm the owner and number of spaces where the installation is proposed. Before forwarding, the permit will be taken to the Sexton, who will then mark the area in the Cemetery where the monument is to be located. Any monument companies or parties wishing to erect a monument failing to conform to this regulation shall be required to complete a monument permit, and to pay any permit fees and penalties as set forth in the Cemetery fee schedule. In addition, said monument companies or parties may be required to pay for any costs resulting from any action needed to bring said monument into compliance with this article. Further, said monument companies or parties shall not thereafter be permitted to perform any future work in the Cemetery. (Code 2009)

12-130. MONUMENT PLACEMENT. All monuments on any grave space shall be located and placed as directed by the Sexton. No monument shall be set until arrangements are made with the Sexton and all installations shall be made under the supervision of the Sexton. No Saturday, Sunday or holiday monument settings shall be permitted except in case of emergency. No monument settings shall be permitted while a funeral service is in progress. No building materials and implements needed for the setting of monuments shall remain on the Cemetery grounds longer than is actually necessary to do the setting. Should such implements or materials be left on the grounds, the Sexton shall cause the same to be removed to some suitable place at the owner's costs. Any workmen failing to conform to this regulation and the other requirements of this article shall not thereafter be permitted to work on the grounds. (Code 2009)

12-131. MONUMENT MAINTENANCE. Monuments may be realigned or relocated by the Sexton. The Sexton may also authorize repair or reset of foundations and markers as the need requires. It shall not be the responsibility of the Cemetery to maintain temporary markers placed on graves. (Code 2009)

12-132. IMPROPER INSCRIPTIONS. If any inscription is placed in or upon any monument or structure upon any lot which shall be determined by the Sexton to be

improper or offensive or injurious, the Sexton shall report the same to the governing body, and, if after due investigation, the same is found to be improper, offensive or injurious, the governing body shall order the owner to remove such improper, offensive or injurious inscriptions. If the owners neglect or refuse within thirty (30) days after receiving notice of order of removal, then the governing body shall cause the same to be removed. Anyone found to be in violation of this article shall be fined according to the City's general fine schedule. (Code 2009)

12-133.

OTHER REGULATIONS.

(A) Orders Received by Telephone. City staff shall not be held responsible for any order received by telephone, or for any mistake occurring from the want of precise and proper instructions as to the particular space, size and location in a space where interment is desired.

(B) Correction of Error. City staff reserves, and shall have, the right to correct any error that may be made by the staff either on making interments, disinterments or removals, or in the description, transferring conveyance of any interment space either by canceling such conveyance or transferring property of equal value and similar location as far as possible as may be selected by the governing body; or by refunding the amount of the money paid on account of said purchase.

(C) Protection from Loss or Damage. The City shall take reasonable precautions to protect grave space owners with the Cemetery from loss or damage, but it distinctly disclaims all responsibility for loss or damage from causes beyond its reasonable control, to include but not be limited to damage caused by the elements, an act of God, common enemy, thieves, vandals, strikers, malicious mischief makers, explosions, unavoidable accidents, invasions, insurrections, riots, or order of any military or civil authority, whether the damage be direct or collateral, other than as herein provided.

(D) Advertisements. No advertisements shall be permitted within the Cemetery at anytime.

(E) Chemical Spraying. No one other than City staff shall be allowed to spray any chemical agent, including fertilizer, weed killers, herbicides, and ground sterilants.

Anyone found to be in violation of this article shall be fined according to the City's general fine schedule. (Code 2009)

ARTICLE 2. CITY LIBRARY

- 12-201. **LIBRARY BOARD CREATED; APPOINTMENT OF MEMBERS.** There is hereby created a board to be known as the Directors of the Ellis Public Library, consisting of eight members, one of whom shall be the mayor of the city who shall be an ex officio member of the board, and the remaining seven members shall be appointed by the mayor by and with the approval of the council, all of said members to be chosen from the residents of the city at large, with reference to their fitness for such office; provided, that no person holding any official position under the city, other than the mayor, shall be appointed a director while holding such office. All of the present members of the board of directors shall hold office until the expiration of their respective terms. (Code 1968, 9-101)
- 12-202. **DUTIES OF BOARD; EXPENDITURES; TREASURER.** Such board shall effect its own organization and elect officers from its own members, and shall adopt such bylaws and rules for its own guidance and for government of the library as it may deem expedient, and not inconsistent with the laws of the State of Kansas with reference to public libraries. It shall have full and complete charge and supervision of the library and all of the buildings, grounds and rooms set apart for that purpose, and shall have all such other and further duties as may be provided for such board by the laws of the State of Kansas. Such board shall have exclusive control of the expenditures of all moneys collected by taxation or otherwise to the credit of the library fund, which fund shall be kept in the treasury of the city and shall be kept separate and apart from other funds. The city treasurer, upon receiving a certificate signed by the president and secretary of the board of directors to the effect that the person named in such certificate has been duly elected as the treasurer of the library fund and has given bond as required by law, shall pay over to such treasurer all funds collected for the maintenance of such public library, to be by such library treasurer disbursed under the direction of the board of directors as by law provided. (Code 1968, 9-102)
- 12-203. **LIBRARY EMPLOYEE BENEFIT CONTRIBUTION FUND; ESTABLISHED.**
 (a) The city, in accordance with the provisions of K.S.A. 12-16,102, does hereby establish a library employee benefit contribution fund for the purpose of paying the city's share of library employee benefits prescribed by subsection (b) of this section.
 (b) The city's share of the cost of employee benefits authorized for payment from the fund created by subsection (a) of this section shall include the following:
 (1) Social Security (FICA);
 (2) Kansas Public Employees Retirement System (KPERs);
 (3) Workmen's Compensation Benefits;
 (4) Employment security, unemployment compensation benefits;
 (5) Health and medical insurance.
(Ord. 1048, Secs. 1:2)
- 12-204. **TRESPASS, DAMAGE TO BOOKS.** It shall be unlawful for any person to willfully injure or damage any building occupied by the public library of the city or to

willfully injure or destroy any book, map, chart, magazine, picture, statuary or other personal property belonging to or under the control of the public library of the city. (Code 1968, 9-103)

12-205. REMOVAL OF BOOKS, ETC. It shall be unlawful for any person to take from the public library or any premises thereof in the city any book, map, plat, charter, picture or other personal property belonging to or under the control of the public library except with the permission of the librarian or person or persons in charge thereof, and in compliance with the rules of the public library or to retain such book, map, plat, chart or other personal property in his or her possession or keep the same out of the public library for a longer period of time than that designated on each book or date card. (Code 1968, 9-104)

12-206. CHIEF OF POLICE SHALL NOTIFY. Upon complaint by the librarian or person or persons in charge of the public library of the city of the violation of the rules as referred to in section 12-204 hereof to the chief of police, the chief of police shall notify the person accused of the violation; and if restitution is not made within five days from the date of the notification by the chief of police, the librarian may file a complaint in the police court charging the person with the violations; and a warrant shall be issued for the accused, and upon conviction he or she shall be punished in accordance with this article. (Code 1968, 9-105)

12-207. PENALTIES. Any person violating any provision of this article shall be fined not more than \$50.00. (Code 1968, 9-106)

ARTICLE 3. RECREATION COMMISSION

- 12-301. COMMISSION CREATED; PURPOSE. There is hereby created and established a joint recreation commission to conduct and operate a system of public recreation and playgrounds in the city and school district. (Code 1996)
- 12-302. COMPOSITION; TERMS. The governing bodies of the city and the school district each shall appoint two persons who are residents of the taxing district to serve as members of the recreation commission, and the persons so selected shall select one additional person, and all of such persons shall constitute the recreation commission.
Of the members of the commission first selected by the school district, one shall serve for a term of one year, and one for a term of four years; one of those first selected by the governing body of the city shall serve for a term of two years, and one for a term of three years. The additional member shall serve for a term of four years. Thereafter, the members of the commission shall be selected in the same manner as the member such person is succeeding and the term of office of each shall be four years. Any member of the recreation commission may be removed from the commission, by the appointing authority, for any cause which would justify removal of an appointive officer of the city or school district. Except for members first appointed to the commission, all commissioners not filling a vacancy shall hold office for a term of four years and until their successors are appointed and qualified. Whenever a vacancy occurs in the membership of the commission, a successor shall be selected to fill such vacancy in the same manner as and for the unexpired term of the member such person is succeeding. (Code 1996)
- 12-303. POWERS AND DUTIES. The administration and operation of the business and affairs of the recreation system is hereby delegated to the recreation commission and the said commission is hereby vested with the powers, duties, and obligations necessary for the establishment and conduct of a system of supervised recreation within the city and school district. (Code 1996)
- 12-304. ORGANIZATION; MEETINGS; ATTENDANCE REQUIREMENTS. The commission shall, upon appointment, elect a presiding officer and secretary, and shall, upon appointment, hold meetings from time to time as in the opinion of said commission are necessary. No meeting shall be held unless at least four members are in attendance. (Code 1996)
- 12-305. ANNUAL BUDGET; DEADLINE; TAX LEVY; MAXIMUM MILLAGE; USE OF MONEYS; DEPOSIT OF FUNDS. The commission shall annually certify its budget to the school district in the manner provided by law, whereupon tax shall be levied sufficient to raise the amount required by such budget, but in no event, more than one mill. The amount received from the tax so levied shall be sent over to the commission and used by said commission for the purposes herein set out. (Code 1996)

- 12-306. DISBURSEMENTS PAID BY VOUCHER. The disbursements made by said commission shall be paid by voucher and the claims paid by said commission shall be duly verified. (Code 1996)
- 12-307. FILING OF ANNUAL STATEMENT AND REPORT WITH CITY CLERK. On or before February 1 of each year, the commission shall file with the clerk of the U.S.D. an itemized statement of all receipts and disbursements made during the preceding calendar year. Said report shall include a statement of all recreational activities supervised under the direction of said commission. (Code 1996)

ARTICLE 4. PUBLIC PARKS

- 12-401. DEFINITION. As used in this article, public parks shall include any and all public parks located within the city. (Code 1968, 9-301)
- 12-402. SPEED LIMITS. It shall be unlawful for any person to operate a motor vehicle within a public park of the city at a speed greater than reasonable under the conditions then and there existing and in no event in excess of 15 miles per hour. (Code 1968, 9-302)
- 12-403. DISCHARGE OF FIREARMS AND BB GUNS PROHIBITED. It shall be unlawful for any person to discharge any firearms, including BB guns, within any of the public parks of the city. (Code 1968, 9-303)
- 12-404. VEHICULAR TRAFFIC RESTRICTIONS. It shall be unlawful for any person to operate a motor vehicle in any of the public parks of the city except on designated roads and parking areas. (Code 1968, 9-304)
- 12-405. DIGGING HOLES, USE OF METAL DETECTORS PROHIBITED. It shall be unlawful for any person to dig a hole in the city parks of the city, larger than two inches in diameter. In all cases, a person who digs such a hole must repair the premises to their original condition. The failure of a person to comply herewith shall result in the imposition of an applicable fine and further, any person found in violation of this section shall be responsible for any damages that they have caused to the public property. (Ord. 1072, Sec. 2)
- 12-406. LITTERING PROHIBITED. It shall be unlawful for any person to litter or intentionally break glass within any of the public parks of the city. (Code 1968, 9-306)
- 12-407. OPEN FIRE PROHIBITED. It shall be unlawful for any person to cause open fires outside of designated fire areas within any of the public parks of the city. (Code 1968, 9-307)
- 12-408. HOURS OF CONSUMPTION OF CEREAL MALT BEVERAGES LIMITED. It shall be unlawful for any person to consume or drink cereal malt beverages within the confines of the public parks of the city between the hours of 12:00 a.m. and 6:00 a.m. (Code 1968, 9-308)
- 12-409. GLASS BOTTLES AND CONTAINERS PROHIBITED. It shall be unlawful for any person to have in his or her possession cereal malt beverage containers or any other type of beer or beverage container made of glass or glass substances within any of the public parks of the city at any time. (Code 1968, 9-309)
- 12-410. GENERAL CURFEW. (a) It shall be unlawful for any person or persons to remain on or within the premises of any public parks within the city between the hours of 12:30 a.m. and 6:00 a.m., of any day.
(b) The foregoing curfew provisions shall not apply to areas designated as

camping areas or to persons engaged in the activity of fishing on waters located within public parks of the city.
(Code 1968, 9-310)

CHAPTER XIII. STREETS AND SIDEWALKS

- Article 1. Sidewalks
- Article 2. Streets
- Article 3. House Numbering
- Article 4. Trees
- Article 5. Ice and Snow Removal

ARTICLE 1. SIDEWALKS

- 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 building inspector. (Code 1990)
- 13-102. **SIDEWALK GRADE.** Hereafter all sidewalks constructed or reconstructed in the city shall be construed 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; Code 1968, 12-105; Code 1990)
- 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. (Code 1990)
- 13-104. **SAME; PETITION.** When a petition signed by no fewer than 10 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; Code 1968, 12-106; Code 1990)
- 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 walk and providing for the construction of a new walk in the place of the walk condemned. (K.S.A. 12-1804; Code 1968, 12-107; Code 1990)

- 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; Code 1968, 12-108; Code 1990)
- 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; Code 1968, 12-109; Code 1990)
- 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; Code 1968, 12-101; Code 1990)
- 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 section 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 Kansas, and for all contracts exceeding \$10,000 entered into by the city for any such purpose a statutory lien bond required by K.S.A. 60-1111 shall be furnished. (Code 1968, 12-111; Code 1990)
- 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. (Code 1990)
- 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 forewarning 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. (Code 1990)

- 13-112. GATES ON SIDEWALKS. All gates hereinafter hung or attached to any fence abutting on any sidewalk or public way within the city shall be so hung or attached to such fences so that the same swing inward and away from the sidewalk or public way. Any owner of any premises within the city or any agent or person having the management or control of any such premises who shall fail, neglect or refuse to comply with the provisions of this section, shall upon conviction thereof, be fined as provided in section 1-116; provided, that each day's violation of this section shall constitute a separate offense. (Code 1968, 12-227)

ARTICLE 2. STREETS

- 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 building inspector. (Code 1968, 12-201; Code 1990)
- 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 subsection (a).
- (c) Each bond given under this section shall be approved by the city attorney and filed with the city clerk. (Code 1990)
- 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 \$25.00. Each permit issued under the provisions of this section shall cover only one specified excavation. (Code 1990)
- 13-204. SAME; BARRICADES. Any person to whom an excavation permit is issued shall enclose all excavations which they make with sufficient barricades and danger signs at all times, and shall maintain sufficient warning lights or flares at nighttime. The holder of an excavation permit shall take all necessary precautions to guard the public against all accidents from the beginning of the work to the completion of the same. (Code 1968, 12-204:205; Code 1990)
- 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 ward the traveling public of any construction work thereon or adjacent thereto. (Code 1968, 12-208; Code 1990)
- 13-206. CUTTING CURBS; PAVEMENT. (a) No person shall cut any curb, gutter, pavement, blacktop, sidewalk or excavate any street, alley or other public grounds of the city for any purpose without first obtaining a permit authorizing the same from the building inspector.
- (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 sidewalks with like materials, subject to approval of the city superintendent. (Code 1968, 12-210; Code 1990)

13-207. ALTERING DRAINAGE. No person shall change or alter any gutter, storm sewer, drain or drainage structure which 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. (Code 1968, 12-211; Code 1990)

13-208. UNFINISHED PAVEMENT. No person shall walk upon, drive or ride over or across any pavement, sidewalk or incomplete grading which has not been opened for traffic. (Code 1968, 12-204; Code 1990)

13-209. USING STREETS. (a) No person shall occupy any portion of any street, alley or sidewalk for the purpose of temporarily storing building materials without first obtaining a permit for such temporary use from the governing body.

(b) No person may use any portion of any sidewalk or street right-of-way for the purpose of displaying or offering for sale wares, goods, merchandise or other items. Nothing in this article, however, shall be construed as prohibiting the city governing body from temporarily waiving the prohibition of this subsection in connection with community promotions or community-wide celebrations when such waiver is considered to be in the best interest of the city. (Code 1968, 12-207,213; Code 1990)

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. (Code 1968, 12-214; Code 1990)

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. (Code 1968, 12-218; Code 1990)

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. (Code 1990)

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. (Code 1968, 12-217; Code 1990)

- 13-214. 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. (Code 1968, 12-216; Code 1990)
- 13-215. EXCAVATIONS ADJOINING STREETS. It shall be the duty at all times of every person who shall have charge of making an excavation or any obstruction adjacent to or under any sidewalk or street of the city during the course of such work to maintain proper barricades or safety guards and red lights for the protection of the traveling public along the ways adjacent thereto. No such work or excavation shall be allowed to remain over night without sufficient barricades and without being illuminated with lights or flares during the darkness of the night; provided that at all times a fence with at least three strings of good six-inch boards nailed not less than 18 inches apart to posts firmly set in the ground or otherwise firmly secured, such posts not being more than six feet apart with the tops thereof not less than 4 ½ feet from the surface of the sidewalk or street, shall be a minimum barricade and the lights shall be sufficient in number and so placed as to show the full extent of the work or obstruction. (Code 1968, 12-206)
- 13-216. BACKFILLING. Any person having received a permit hereunder and having cut any pavement or made any excavation in any street or public way, shall restore the street, sidewalk, alley or public way to as good a condition as the same was previous to the cutting or excavation. Backfilling of ditches must be tamped in and all material taken out and replaced so ditch will not settle. All dirt, stones, or other rubbish shall be removed immediately upon the completion of the work, and the same may be done under the direction and supervision of the street superintendent. Should any such work be done improperly the street superintendent shall have the right to condemn the work and have it corrected to conform with this article.
(Code 1968, 12-203; Code 1990)
- 13-217. EXCAVATION AND OBSTRUCTIONS IN STREET. It shall be unlawful for any person to leave any excavation, building material, vehicle, stone, brick, dirt or other obstruction in or upon any street, alley or other public place of the city during the nighttime, unless the same be surrounded by barricades and provided with red lights sufficient in number and so located as to notify and guard vehicles or passersby of the extent of such excavation or obstruction. Such red lights shall be lighted before dark and shall be left burning during the entire night.
(Code 1968, 12-204)
- 13-218. DRIVING OVER CURBS OR DESTROYING THE SAME. It shall be unlawful for any person without authority to cut or break or remove or in any manner displace any curbing, guttering, street crossing, paved streets, avenues or alleys or any sidewalk in the city or to operate or drive any traction engine or heavy vehicle of any kind, whether under their own power or by power furnished from other source or sources, along, upon or across any curbing, crossing, guttering, paved street, avenue or alley or sidewalk within the city without proper planking or

protection to prevent injury or destruction of any curbing, crossing, guttering, sidewalk.

(Code 1968, 12-212)

13-219. DEPOSITS IN STREETS. It shall be unlawful for any person or persons to throw or deposit any stones, bricks, carcasses, tin cans, garbage, manure or refuse of any kind or description into or upon any street, alley, avenue, or vacant lot or premises within the limits of the city. (Code 1968, 12-215)

13-220. POSTING BILLS. It shall be unlawful for any person to put up or post up any handbill, advertisement, poster or other such writing on any wall, building, fence, post or pole in the city, now his or her own without the permission of the owner or occupant thereof. (Code 1968, 12-220)

ARTICLE 3. HOUSE NUMBERING

- 13-301. STREET NAMES. All streets and avenues in the city shall be named hereafter as determined by the city council. The names of all such streets and avenues shall be shown and designed by a master naming plan on file with the city clerk as directed by the council. (Code 1968, 12-501)
- 13-302. NUMBERING REQUIRED. All business houses and dwelling houses situated within the corporate limits of the city may be numbered by the owners or the agents of the owners thereof at such times and in such manner as shall hereinafter be designated. (Code 1968, 12-502; Code 1990)
- 13-303. BASE STREET; EAST AND WEST. For the purpose of numbering buildings, Washington Street shall be the base street for streets running east and west, and east of the street the streets shall bear the prefix East and west of Washington Street, the streets shall bear the prefix West and houses and buildings along the streets shall be numbered as provided hereafter. (Code 1968, 12-503)
- 13-304. BASE STREET; NORTH AND SOUTH. For the purpose of numbering buildings along the streets, running north and south, the base street shall be Third Street, and houses and buildings along the street shall be numbered as provided hereafter. (Code 1968, 12-504)
- 13-305. IRREGULAR STREETS. East and west streets not running through Washington Street shall take the corresponding number of the streets that do, and north and south streets that do not run through to Third Street shall take corresponding numbers of the streets that do. (Code 1968, 12-505)
- 13-306. HOUSE NUMBERS. Any lot 25 feet or less in width shall be assigned a number and any house on two lots shall be assigned a number of the lot closest to the base street. Where two dwellings are located on the same lot, the second dwelling shall have the same number as the first dwelling in addition to assigning an alphabetic indicator for each dwelling located within the same lot. The initial alphabetic indicator shall begin with the letter A and progressing through the alphabet as needed. (Ord. 1229; Code 2006)
- 13-307. NUMBERING BY BLOCKS. Houses and buildings in the first block south of Third Street shall be designated by numbers beginning with 300, allowing 100 numbers for each block and so on to the south end of the city limits; provided, that in the Overland Addition, streets running north and south between West 10th Street and West 11th Street shall have numbers in the 1000's regardless of an intervening street. Houses and buildings on the first block east of Washington Street shall be designated with numbers beginning with 100 east and the first block west of Washington Street shall be designated with numbers beginning with 100 west, allowing 100 numbers for each block. All buildings shall take numbers of the street on which they face. (Code 1968, 12-507)

- 13-308. CLERK CONTROLS. In case of doubt or where a question arises as to the proper number to be assigned to any lot or building the city clerk shall decide the question and fix the number of such lot or building. (Code 1968, 12-508)
- 13-309. NUMBERS TO BE PLACED ON BUILDINGS. All buildings now or hereafter erected fronting on any street or alley shall have conspicuously placed on such buildings, the number provided by this article. All buildings that may be erected or relocated after the taking effect of this article shall be numbered as herein provided and within 30 days after their completion. (Code 1968, 12-509)
- 13-310. STYLE OF NUMBER. The number plate placed upon any building shall be of metal and may be placed upon the front of the building, door, post, transom or other place. The numbers shall be at least three inches in height so as to be easily seen from the street. (Code 1968, 12-510)

ARTICLE 4. TREES

- 13-401. GROWING AND PLANTING TREES. It shall be unlawful for the owner or occupant of any lots abutting upon and adjacent to any sidewalk line of any public street, to plant, care for, grown, keep or maintain any trees, shrubbery or hedge so that any branch, limb or part thereof shall project over the sidewalk line at any time lower than eight feet above the surface of the sidewalk or the established sidewalk grade where there is no sidewalk, or lower than 12 feet six inches from the traveled portion of any street, avenue or alley used for vehicular traffic, regardless of whether the trunks of such trees be within or without the lot line or on the inner or outer side of the sidewalk or sidewalk space. No person shall plant any tree within 10 feet of any curb. (Code 1968, 12-601; Code 1990)
- 13-402. DUTIES OF OWNERS OR OCCUPANTS. It shall be the duty of all owners or occupants of lots, tracts, or pieces of land, to trim and keep trimmed all trees on or opposite their respective lots or tracts of land so as to comply with the requirements of section 13-401 of this article, and upon failure of any owner or occupant to cut or trim any trees, shrubbery, or hedge overhanging, obstructing, or interfering with public travel on any sidewalk or street of the city, the same may be done by the city in the manner hereinafter provided. (Code 1968, 12-602)
- 13-403. WHEN PROPERTY OWNER NEGLECTS DUTY. Whenever any property owner or occupant whose duty it is to keep the trees, shrubbery and hedges trimmed or cut, as provided in section 13-402 of this article, shall fail to do so, the city superintendent shall report the same to the city clerk. The city clerk shall serve notice or cause notice to be served on such owner, requiring the obstructions to be trimmed or cut forthwith. If the owner or occupant shall fail to trim or cause such trees, shrubbery or hedge to be trimmed or cut in accordance with the notice within five days after the same shall be served by the city marshal, the city superintendent or some other competent person authorized by the city council shall trim such trees, hedge or shrubbery or cut down or remove the same as may be necessary to remove any such obstruction. The work shall be done in a careful and workmanlike manner as not to injure or destroy any such tree, shrubbery or hedge. Thereupon, a report of the cost of doing the work shall be reported to the city clerk, and the clerk shall certify the cost thereof to the county clerk to be taxed against any such lot or tract of ground on which or in front of which the trees, hedge or shrubbery may be located; provided, that in the event the owner of the property is unknown or the property unoccupied, the notice hereinbefore required shall be published once in the official city paper requiring that the obstruction be removed within 10 days; provided further, that if there is great danger to life or property by reason of any such obstruction, the same may be removed forthwith by the city superintendent without any notice. (Code 1968, 12-603; Code 1990)
- 13-404. MAYOR MAY AUTHORIZE REASONABLE TRIMMING IN CERTAIN CASES.
In order to prevent interference with and damage to the electric light, power and telephone wires in the city from limbs or branches of trees growing along any street, avenue, alley or park, the mayor may authorize the reasonable trimming or

cutting of such tree or trees for the purpose of preventing interference, damage or loss to the utility wires; provided, that the cost of trimming any tree or trees as provided in this section shall be borne by the person owning such wires.
(Code 1968, 12-604)

13-405. SHADE TREE COMMITTEE. (a) The governing body of the city is desirous of beautifying areas of the city by encouraging the orderly planting and removal of trees and shrubs in public areas of the city, and in accordance with such desire, there is hereby appointed a shade tree committee, for the purpose of coordinating and planning for the planting, maintenance, treatment and removal of trees and shrubbery upon all streets, alleys, avenues, and in all parks and public areas of the city.

(b) The shade tree committee shall consist of five members, who shall be residents of the city and who shall be appointed by the mayor, with the consent and approval of the governing body.

(c) The initial three members of the committee shall be appointed for variable terms, with one member serving a term of three years, one member serving a term of two years, and the last of the three serving an initial term of one year. All initial and succeeding appointments shall expire on April 1 of appropriate year. Upon the expiration of the initial terms of the initial member appointed, succeeding members shall be appointed in like manner for terms of three years. In the event that a vacancy shall occur during the terms of any member, his or her successor shall be appointed for the unexpired portion of the term, and shall be appointed by the mayor with the consent and approval of the governing body.

(d) Members of the committee shall serve without compensation. The committee shall study, investigate, counsel, and develop as needed written reports of plan or plans for the care, preservation, trimming, planting, replanting, removal, or disposition of trees and shrubs in public ways, streets, alleys, parks, and upon all public grounds located within the city. Such plans shall be presented from time to time to the city council, and shall constitute the recommendation of the shade tree committee. The committee shall upon request of the governing body, report in writing upon any matter submitted to them for consideration and study. The committee shall choose its own officers, make its own rules and regulations, and shall keep a journal of its proceedings. A majority of the members present shall constitute a quorum for the transaction of business.

(Code 1968, 12-604.1; Ord. 1124, Sec. 2; Code 1998)

13-406. PLANTING IN PARKING AREAS; TREE TYPES ENUMERATED; APPLICATION FOR AUTHORIZATION; VIOLATIONS. (a) It shall be unlawful for any person to plant any trees or shrubbery on any tract of land abutting upon any street or avenue in the city in that portion of the street or avenue between the lot line and the curb line of the street or avenue, such area being commonly called parking or parking areas, except that subject to the terms and conditions hereinafter provided, the following trees may be planted in the areas:

Washington Hawthorne, Japanese Tree Lilac, Flowering Peer (Bradford), Service Berry (Tree Form), Golden Rain Tree, Purple-leaf Plum, Russian Olive, Common Apricot, Western Soap Berry Bud.

(b) Upon written application made to the city clerk for authority to plant authorized trees or other trees after application to and approval by the city governing body in any of the areas here and before referred to, the city clerk shall submit the application to the chairperson of the shade commission and the shade tree commission shall then examine the application and view the site where the trees are to be planted and the commission, by their chairperson, shall then submit a written recommendation to the city clerk on the application and the city clerk shall thereupon issue such permit specifying the tree or trees to be planted, the manner of planting the same and the location where such tree or trees are to be planted; provided however, that the person making such application may appeal the recommendation of the shade tree commission to the city council.

(c) Any person violating any of the provisions of this section, shall upon conviction thereof, be subject to a fine, not to exceed \$100.00 or be imprisoned not to exceed 30 days or be both so fined and imprisoned. Any person planting any tree or shrubbery which is unauthorized under this section, shall have the duty and responsibility of removing such tree or shrubbery.

(Code 1968, 12-604.2; Code 1990)

ARTICLE 5. ICE AND SNOW REMOVAL

- 13-501. **SIDEWALKS; REMOVAL OF ICE AND SNOW; SPECIAL TREATMENT IN CERTAIN CASES.** It is hereby made the duty of the owner and of the occupancy of any lot abutting upon any sidewalk, either in front or at the side or both, in the city, to cause to be removed from such sidewalks all snow and ice and to keep such sidewalks at all times free from the accumulation of snow and ice; provided, that 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 salt, ashes, sand or other similar chemicals or materials 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. (Ord. 1075, Sec. 1)
- 13-502. **TIME OF REMOVAL.** Any person required by section 13-501 to remove ice or snow from sidewalks adjoining or abutting any lot or piece of ground in the city shall do so within six hours after the abatement of a storm causing any accumulation of ice or snow; provided, that when the storm shall have occurred in the nighttime, the time required herein shall end within six hours after sunrise. (Ord. 1075, Sec. 2)
- 13-503. **REMOVAL BY THE CITY.** When any person shall neglect or fail to remove any accumulation of ice or snow, or treat the same as herein required or authorized, the city clerk may cause the same to be removed, at the expense of the person bound by law to remove any such accumulation, and assess the cost of such removal against such abutting lots to be collected in the same manner as required for the building of sidewalks. (Ord. 1075, Sec. 3)
- 13-504. **BUILDINGS AND STRUCTURES NEAR STREETS, ALLEYS, SIDEWALKS; REMOVAL OF OVERHANGING SNOW AND ICE.** It is hereby made the duty of the owner and of the occupant of any building or structure located near or adjacent to any street, alley or sidewalk to remove at his or her own expense any accumulation of snow or ice upon the roof or sides thereof which overhangs or is likely to fall on such street, alley or sidewalk and which is dangerous or hazardous to pedestrians or vehicles on such street, alley or sidewalk. (Ord. 1075, Sec. 4)

CHAPTER XIV. TRAFFIC

- Article 1. Standard Traffic Ordinance
- Article 2. Local Traffic Regulations
- Article 3. Impoundment of Motor Vehicles
- Article 4. Hazardous Materials

ARTICLE 1. STANDARD TRAFFIC ORDINANCE

- 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 of Ellis, Kansas, that certain standard traffic ordinance known as the "Standard Traffic Ordinance for Kansas Cities," Edition of 2009, prepared and published in book form by the League of Kansas Municipalities. No fewer than three (3) copies of said Standard Traffic Ordinance shall be marked or stamped "Official Copy of the City of Ellis, Kansas," and to each one shall be attached a copy of this ordinance, and said copies filed with the city clerk to be open to inspection and available to the public at all reasonable hours. The police department, municipal judge, and all administrative departments of the city charged with enforcement shall be supplied, at the cost of the city, such number of official copies of such standard traffic ordinance similarly marked, as may be deemed expedient. (Code 2009)
- 14-102. **ADDITIONAL TRAFFIC ORDINANCE ADOPTED.** In addition to the provisions of the Standard Traffic Ordinance for Kansas Cities which regulate traffic on the streets and highways of the City of Ellis, Kansas, the following is adopted: No person shall operate or halt any vehicle in such manner as to indicate a careless or needless disregard for the rights or safety of others in such a manner as to endanger or be likely to endanger any person or property. Any person violating the provisions of this section shall be subject to the penalty provisions hereinafter contained. (Code 2006)
- 14-103. **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. Supp. 8-2118.
(b) All traffic violations which are included within this article, and which are not ordinance traffic infractions as defined in subsection (a) of this section, shall be considered traffic offenses.
(Code 2006)
- 14-104. **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 and a fine schedule shall not be less than \$10.00 or more than \$500.00. A person tried and convicted for violation of an ordinance traffic infraction or other traffic offense for which a fine has been established by a fine

schedule shall pay a fixed fine set by the court not to exceed \$500.00. (Code 2006)

ARTICLE 2. LOCAL TRAFFIC REGULATIONS

- 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 of Ellis 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. (Code 1990)
- 14-202. STREETS ON WHICH ANGLE PARKING PERMITTED. Angle parking at the angle indicated on the curbs, sidewalk or pavement, or by signs, is hereby permitted on the following streets:
(a) East Eighth Street, from Washington Street to Madison Street;
(b) East Ninth Street, from Madison Street to Washington Street;
(c) Jefferson Street, from West Ninth Street to West Eighth Street.
(d) Madison Street, from Ninth Street to Eighth Street;
(e) Washington Street, from Seventh Street to Twelfth Street, on both sides thereof, except in such portions thereof in which angle parking is not so indicated;
(f) West Ninth Street, from Dorrance Street to Washington Street.
(Code 1968, 13-102)
- 14-203. THROUGH STREETS. In accordance with the provisions of section 67 of the Standard Traffic Ordinance, and when signs are erected giving notice thereof, drivers of vehicles shall stop or yield as the sign directs at every intersection before entering any of the following streets or parts of streets which are designated through streets:
(a) Dorrance Street, from Ninth Street to Tenth Street is hereby designated as a through street;
(b) Monroe Street, from East Tenth Street to Eighteenth Street is hereby designated as a through street;
(c) Tenth Street, from Spruce Street to Baughman Street is hereby designated as a through street;
(d) Washington Street, from Third Street to Thirteenth Street is hereby designated as a through street, with the exception of the intersection of Tenth Street and Washington Street, which intersection shall be controlled by traffic light;
(Code 1968, 13-103; Code 1990)
- 14-204. SCHOOL SPEED ZONES. No person shall drive any vehicle on the portions of any of the following streets as designated immediately below:
(a) Monroe Street, from Twelfth Street to Nineteenth Street;
(b) Thirteenth Street, from Monroe Street to Dorrance Street;
(c) Washington Street, from Fifth Street to Sixth Street;

(d) Washington Street, from Twelfth Street to Thirteenth Street; or through any designated school crosswalk between the hours of 7:00 a.m. and 4:30 p.m., on the days when school is in session or when school grounds are being used for organized playground activities, at a rate greater than 20 miles per hour, or at a rate of speed greater than is reasonable and prudent, having due regard for the traffic and use of the road and the condition of the road, nor at a rate of speed such as to endanger the life, property or limb of any person. (Code 1968, 13-104)

14-205. UNNECESSARY SPINNING OF TIRES. It shall be unlawful for any person to drive any motor vehicle in such a manner as to unnecessarily spin the tires of such vehicle within the city. (Code 1968, 13-105)

14-206. PARKING OF TRUCKS, ETC; WEIGHT RESTRICTIONS. It shall be unlawful for any person to park any truck (except pickup trucks), tractor, trailer, mobile home, motor home, or bus having a registered gross vehicle weight of 16,000 pounds or more and having an overall length of more than 225 inches or an overall width of more than 84 inches or an overall width of more than 84 inches, or a truck tractor with or without trailer, on any highway or street within the city limits of the city for a period of time longer than two hours. However, all trucks may be parked in such places as may be available for that purpose and where such vehicles shall not be a hazard to traffic or create a nuisance as shall be designated by the chief of police of the city. (Ord. 1030, Sec. 1)

14-207. SCOOTERS, PROHIBITED. (a) No person shall use, operate or ride any motorized scooter on the sidewalks or other public areas of the City of Ellis, Kansas.

(b) A Scooter shall be defined as any two-wheeled vehicle that is propelled by an electric or gasoline powered motor, and is not a moped or motorcycle as defined by law.

(c) Any person in violation of this ordinance, who is eighteen (18) years of age or older, the scooter shall be released by the City if the violator appears at the police department, provides self-identification and pays a twenty-five dollar (\$25.00) impoundment fee.

(d) Any person under eighteen (18) years of age must appear at the police department with a parent or legal guardian to obtain release of the scooter upon payment of a twenty-five dollar (\$25.00) impoundment fee. If no such parent or guardian lives within the City of Ellis, the scooter may be released if its owner provides a letter from a parent or guardian requesting the scooter be released upon payment of the twenty-five dollar (\$25.00) impoundment fee. (Ord. 1198, Sec. 1:2; Code 2005)

ARTICLE 3. IMPOUNDMENT OF MOTOR VEHICLES

14-301. DEFINITIONS. For the purpose of this article, the following terms, phrases, words and their derivations shall have the following meanings:

(a) Highway. The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel. Where the word "highway" or the word "street" is used in this article, it means street, avenue, boulevard, thoroughfare, alley, and other public way for vehicular travel by whatever name, unless the context clearly indicates otherwise.

(b) Motor Vehicle. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively on stationary rails or tracks.

(c) Owner or Occupant. A party having fee simple title in the real property, or a party having a leasehold interest in the real property, or a party who is the beneficiary of a private easement for the purpose of egress or ingress to or from said real property. (Code 1990)

14-302. IMPOUNDING VEHICLES. The police department may cause to be impounded:

(a) Any motor vehicle unlawfully parked on a highway in violation of any provision of a city ordinance which prohibits the parking of vehicles at the place where or time when the impounded motor vehicle is found.

(b) Any motor vehicle that has been abandoned and left on a highway or other property open to use by the public for a period in excess of 48 hours pursuant to K.S.A. 8-1102.

(c) Any motor vehicle which:

(1) Is subject to removal pursuant to K.S.A. 8-1570, or 8-1102, or

(2) Is subject to seizure and forfeiture under the laws of the state, or

(3) Is subject to being held for use as evidence in a criminal trial.

(d) Any motor vehicle, the continued presence of which, because of the physical location or condition of the motor vehicle, poses a danger to the public safety or to the motor vehicle.

(e) Any motor vehicle which has been abandoned or parked on any real property, other than public property or property open to use by the public, may be moved and disposed of in accordance with the terms of this article by the police department upon the request of the owner or occupant of such real property. The real property referred to herein shall not be owned or leased by the person who abandons or parks said vehicle or by the owner or lessee of such vehicle. The city or any person, partnership, corporation or their agent conducting a business enterprise for the purpose of towing vehicles which removes such vehicle from the real property at the request of the police department shall have a possessory lien on such vehicle for the cost incurred in removing, towing and storing such vehicle. For purposes of this article, common areas shall be construed not to mean public property or property open to the public. (Ord. 1037, Sec. 1; Code 1990)

14-303. SAME. The police department may authorize storage of such impounded motor vehicles at any location, public or private, which is zoned for the storage of motor vehicles. (Code 1990)

14-304.

NOTICE OF IMPOUNDMENT; STORAGE OF VEHICLE. (a) When Owner Present. When the police department intends to impound a motor vehicle pursuant to section 14-302 and the owner of the motor vehicle is then present, the police department shall before the motor vehicle is removed, provide the owner with a notice, in the form prescribed by the police department that the motor vehicle is being impounded, that towing and storage charges will be assessed against the impounded motor vehicle, that the owner may claim and regain possession of the impounded motor vehicle at the location to which it is being removed for storage without prepayment of towing and storage charges and that the owner may request a hearing as to the propriety of the impoundment and as to the amount of and the owner's liability for the towing and storage charges. The notice shall also state the location where the impounded motor vehicle will be stored and the place where the owner may make his or her request for the hearing. The notice shall also state, in prominent language, that failure by the owner to request a hearing within five days after receipt of the notice may act as a waiver of his or her right to a hearing and that this may result in the placing of a lien against the motor vehicle for the towing and storage charges without further notice to the owner; and that the motor vehicle be sold at public auction to the highest bidder for cash after 15 days from the date of the mailing of the notice. The owner of the impounded motor vehicle shall sign the notice as an acknowledgment that he or she has received a copy of the notice and a copy of the notice shall be provided to the owner.

(b) When Owner not Present. (1) When the police department impounds and removes a motor vehicle pursuant to section 14-302(a) and the owner of the motor vehicle is not present at the time of the impoundment, the police department shall, if such motor vehicle has displayed thereon a registration plate issued by the division of vehicles and has been registered with said division, mail a notice by certified mail to the registered owner thereof, addressed to the address as shown on the certificate of registration, and to the lienholder, if any, of record in the county in which the title shows the owner resides, if registered in this state. The notice shall be in the form prescribed by the police department containing the same information as required by section 14-304(a). The police department shall use reasonable diligence in determining the title owner, or if from a non-title state, the registered owner, of the vehicle, and shall inquire by mail of the office of the register of deeds of the county in which the title shows the owner resides, if registered in this state, as to whether there are any lienholders of record. If the owner cannot be served by certified mail at the address on the motor vehicle registration and there is no other known address of the owner, the owner shall be deemed to be a resident of the state whose whereabouts are unknown and service shall be made on the Secretary of State as provided in K.S.A. 8-401.

If the owner does not reside in the state, as appears from the motor vehicle registration and the owner cannot be served by certified mail at the address on the motor vehicle registration and there is no other known address of the owner, the owner shall be deemed a nonresident of the state and service shall be made on the Secretary of State as provided in K.S.A. 8-401.

(c) Failure or Refusal to Sign Notice. If any person required by this section to sign a notice of impoundment willfully fails or refuses to do so, or if such person cannot be found, the police department shall note this fact on the face of the

notice, which shall constitute prima facie evidence of delivery or service of notice as required by this section. (Ord. 1037, Sec. 1; Code 1990)

14-305. IMPOUNDMENT AFTER REQUEST TO LEAVE MOTOR VEHICLE. In all cases wherein the owner or operator of a motor vehicle which is on a public street has requested that the motor vehicle be left unattended at that location, in lieu of impoundment of the motor vehicle pursuant to section 14-302, the police department may honor said request for a period of time not exceeding 24 hours, after which time the motor vehicle shall either be removed from the location by the owner or operator or be impounded by the police department pursuant to section 14-304. The police department shall be immune from liability for any damage, loss or destruction of the motor vehicle occasioned by its being left unattended pursuant to the request of the owner or operator thereof, in lieu of impoundment. Nothing in this section shall be construed to limit the authority of the police department to order the removal of a motor vehicle by its owner or operator or to impound a motor vehicle pursuant to section 14-304 at any time whenever in his or her judgment the presence of the unattended motor vehicle constitutes a danger to the public safety.
(Code 1990)

14-306. RELEASE OF MOTOR VEHICLE FROM IMPOUNDMENT. (a) Generally. Unless the vehicle is impounded pursuant to section 14-302(b) herein, the owner of an impounded motor vehicle may secure the release of the motor vehicle from impoundment upon requesting such release and presenting proof of ownership satisfactory to the custodian of the place where the motor vehicle is stored. If the custodian is satisfied that the person making the request is the owner or his or her authorized agent, he or she shall release the motor vehicle to the owner or his or her agent. Nothing in the preceding sentence shall preclude the owner of the impounded motor vehicle or his or her agent from paying any towing and storage charges that may be assessed against the motor vehicle, but neither the police department nor the custodian of the storage space may require payment of any towing or storage charges as a condition precedent to such release. At the same time as the owner or his or her agent requests release of the impounded motor vehicle, and if such request is made within 40 days after the owner receives a copy of the notice of impoundment, the police department shall provide him or her an opportunity to make a request for a hearing on the propriety of the impoundment and on the amount and his or her liability for the towing and storage charges occasioned by the impoundment; provided, that if the owner or his or her agent requests release of the impounded motor vehicle more than 40 days after the owner receives a copy of the notice of impoundment, no hearing may be requested on the impoundment or on the towing and storage charges and the owner shall be conclusively presumed to have consented to the impoundment and to the amount of and his or her liability for the towing and storage charges.

(b) Security for Payment of Charges. If the ownership of the impounded motor vehicle is evidenced by a title certificate issued by the Kansas Department of Highway Safety and Motor Vehicles, the owner or his or her agent may secure the release of the motor vehicle from impoundment without the payment of any towing or storage charges or the deposit of any security for the payment thereof. If the ownership of the impounded motor vehicle is evidenced by a foreign title

instrument, or if the jurisdiction in which title is recorded is not evidenced from the document establishing ownership, the owner or his or her agent, before the custodian of the place where the motor vehicle is stored authorizes release of the motor vehicle from impoundment, shall deposit with the custodian cash in the amount of the towing and storage charges to the date of the request. If the owner or his or her agent refuses to provide the cash deposit, the custodian shall not authorize release of the impounded motor vehicle but if the request is timely made, a date shall be set for the hearing on the impoundment and charges.
(Code 1990)

14-307. HEARING. If the owner of an impounded motor vehicle or his or her agent timely requests the release of the motor vehicle from impoundment and a hearing on the impoundment and charges, as provided in section 14-306, a date shall be set, not more than five days after the date of request, for the hearing. The city attorney shall provide a hearing examiner to conduct the hearings required by this section. At the hearing, the owner, his or her agent, or his or her attorney shall be afforded an opportunity to present, by oral testimony or documentary evidence, his or her objections to (a) the impoundment of the motor vehicle and (b) (1) the amount of the towing and storage charges and (2) his or her liability for the payment thereof. If the owner or his or her agent requested the hearing more than five days but not more than 40 days after the owner received a copy of the notice of impoundment, the owner, his or her agent or his or her attorney shall be required at the hearing, as a condition precedent to the presentation of any objections by the owner, to show good cause for the delay in making the request more than five days after the owner received a copy of the notice of impoundment: if good cause cannot be shown, the hearing officer shall dismiss the hearing and make the finding stated in subsection (b) below; otherwise, the hearing examiner shall proceed to hear the owner's objections. At the conclusion of the hearing on the owner's objections, the hearing examiner shall render his or her decision if the hearing examiner:

- (a) Finds that the impoundment was improper, he or she shall:
 - (1) Find that the owner is not liable for any towing or storage charges occasioned by the impoundment and
 - (2) Determine whether and to what extent the city shall bear the expense of the towing and storage charges; or
- (b) Finds that the impoundment was proper, he or she shall establish:
 - (1) The amount of the towing and storage charges to be assessed against the impounded motor vehicle and
 - (2) The extent of the liability of the owner for payment of the towing and storage charges so established. The decision of the hearing examiner shall be final, and a copy of the decision shall be furnished to the owner of the impounded motor vehicle, to the custodian of the place where the motor vehicle is stored and to the city attorney.

In the event that the impoundment was pursuant to K.S.A. 8-1102(b), the owner or occupant of the real property upon which the abandoned vehicle was located shall not be assessed the costs of towing and storage of the vehicle. Further, nothing within this article shall be construed to modify or effect the validity of the possessory lien of the person removing such vehicle from the real property established by K.S.A. 8-1102(b). (Code 1990)

14-308. CHARGES CONSTITUTE A LIEN. The towing and storage charges occasioned by the impoundment of a motor vehicle pursuant to section 14-302 shall be and constitute a lien upon the impounded motor vehicle, except as provided in this section. If the hearing examiner finds pursuant to section 14-307 that the impoundment was improper and if he or she determines that the city shall bear part or all of the towing and storage charges, the lien created by this section shall be discharged. If the hearing examiner finds pursuant to section 14-306 that the impoundment was proper but that the towing and storage charges should be in an amount less than the amount of the lien, the lien created by this section shall be discharged to the extent that it exceeds the amount established by the hearing examiner. The holder of a lien created by this section may perfect such lien in any manner provided by law, but he or she may not retain possession of the motor vehicle when it has been released pursuant to section 14-306(a). In the event that the impounded motor vehicle is released from impoundment and the owner or his or her agent has provided security for payment of charges as required by section 14-306(b), the lien created by this section shall also be a lien against the security so provided, subject to being wholly or partially discharged as provided in this section. (Code 1990)

14-309. SATISFACTION OF LIEN; NOTICE OF PUBLIC SALE. The holder of a lien against a motor vehicle created by section 14-308, to the extent that such lien has not been discharged as provided in section 14-308 or otherwise satisfied, may enforce such lien in any manner provided by law after 60 days from the date the motor vehicle is impounded by the police department. If the owner of the motor vehicle or his or her agent has provided security for the payment of the lien as provided in section 14-306(b), the lien shall first be satisfied out of the security so provided and, if any portion of the lien remains unsatisfied and undischarged, may then be enforced in any manner provided by law. If the motor vehicle against which the lien is created pursuant to section 14-308 is still under impoundment 60 days from the date it is impounded by the police department and the owner has not requested release of the motor vehicle from impoundment nor paid the towing and storage charges that are the basis for the lien, the motor vehicle shall be sold at public sale to the highest and best bidder for cash to satisfy the lien. Notice of the sale shall be given in accordance with K.S.A. 8-1102. Publication, required by K.S.A. 8-1102, may be made before the termination of the 60 day period for a sale thereafter. (Code 1990)

14-310. REDEMPTION. If the city is to conduct the sale:
(a) Any holder of a recorded lien or retained title on a motor vehicle to be sold by the city under the provisions of section 14-309 may claim and take possession thereof, upon payment of accrued charges and estimated costs of publication of the notice of sale to the police department and the deposit with the police department of sufficient assurance by surety bond or otherwise, approved by the city attorney, that the motor vehicle will be forthcoming for public sale thereof or upon claim of the rightful owner prior to the sale. The police department shall, within three days, make a report to the city treasurer and deliver the charges and costs so paid to the city treasurer, taking a receipt therefor and filing it, together with a duplicate copy of the report to the city treasurer, with the records in

his or her office. The funds shall be held in a trust account until final disposition of the motor vehicle. Not less than five days before the date for sale of the motor vehicle, the police department shall notify the lienholder or retained titleholder of the time and place for the sale, and the lienholder or retained titleholder shall deliver such motor vehicle to the police department at or before 12:00 noon of the day before the sale. At the sale the amount paid shall be credited on the bid of the lienholder or retained titleholder. If the lienholder or retained titleholder is the successful bidder for the motor vehicle, the police department shall report this fact to the city treasurer and then the funds previously paid by the lienholder or retained titleholder shall be relieved of the trust previously impressed and become the same as other funds received by the city for storage and costs of impounded motor vehicles. If the motor vehicle is sold for a higher bid to any person other than the lienholder or retained titleholder, the police department shall report this fact to the city treasurer and the lienholder or retained titleholder shall be refunded the amount previously paid by him out of the trust account.

(b) And if the rightful owner of the motor vehicle claims the same before the sale by payment of the accrued charges, the police department shall immediately notify the lienholder or retained titleholder in possession of the motor vehicle and he or she shall return the same to the police department within 12 hours. The police department shall report this redemption by the rightful owner to the city treasurer and the lienholder or retained titleholder shall be refunded the amount previously paid by him or her out of the trust account. (Code 1990)

14-311. SALE PROCEEDS. The proceeds of a public sale held pursuant to section 14-308 whether such sale was conducted by the city or by any other person, after payment of the towing and storage charges and costs and expenses incident to the sale, shall be deposited with the city treasurer, if the owner of the motor vehicle is absent from the sale, for credit to the trust account. The funds deposited in the trust account pursuant to this section shall remain in the account subject to the order of the person legally entitled thereto, but if no claim is made for these funds within a period of one year after the sale, the funds shall become the property of the city, be released from the trust account and be paid into the general fund as miscellaneous revenues. (Code 1990)

14-312. STATUTORY PROCEDURES. Nothing in this article shall be construed to augment, diminish, supersede or otherwise interfere with any statutory procedure established by the legislature for the collection of unpaid towing and storage charges. The procedures in this article are supplementary and cumulative to any statutory procedures. (Code 1990)

14-313. IMPLEMENTATION OF ARTICLE. The police department and city treasurer are authorized to make rules for the implementation and administration of this article. (Code 1990)

14-314. REIMBURSEMENT FOR DISCHARGED LIENS. If a lien created by section 14-308 and held by a private wrecker or towing firm is discharged by section 14-308 pursuant to a determination by a hearing examiner that an impoundment was improper and that the city shall bear part or all of the towing and storage charges,

the city shall pay to the firm the amount determined by the hearing examiner. No payment shall be made until it is authorized by the city attorney. (Code 1990)

ARTICLE 4. HAZARDOUS MATERIALS

- 14-401. HAZARDOUS MATERIAL DEFINED. As used in this article, the term hazardous material shall mean any compressed gas, explosive, flammable liquid, flammable solid, oxidizer, poison, radioactive material or any substance that due to its nature may cause death or disability injury upon contact therewith. (Code 1990)
- 14-402. SAME; EXCEPTIONS. The provisions of this article shall not apply to any container which shall have a capacity of 150 gallons or less which 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. (Code 1990)
- 14-403. TRANSPORTATION OF HAZARDOUS MATERIALS. Except as provided in section 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. (Code 1990)
- 14-404. HAZARDOUS MATERIALS ROUTES. The provisions of section 14-403 shall apply to all streets, avenues, highways, roadways, alleys or other public right-of-ways 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 following streets, avenues, highways or roadways:
- (a) Monroe from the south city limits to 10th Street;
 - (b) 10th Street from the east city limits to the west city limits;
 - (c) Washington Street from 10th Street to the north city limits.
- (Code 1990)
- 14-405. PARKING OF VEHICLES OR TRAILERS CARRYING HAZARDOUS MATERIALS. (a) Except as provided in subsections (b) and (c), 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 of the following city zoning districts as defined in Chapter 16 of this code:
- (1) (Reserved)
 - (b) Subsection (a) 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 section 14-404 of this code.
 - (c) Subsection (a) 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. (Code 1990)
- 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. (Code 1990)

CHAPTER XV. UTILITIES

- Article 1. Water Department
- Article 2. Utility Accounting
- Article 3. Sewage Disposal
- Article 4. Solid Waste
- Article 5. Water Conservation

ARTICLE 1. WATER DEPARTMENT

- 15-101. **NAME.** The water system of the city shall be operated by a department to be known as the Water Department. (Code 1968, 14-101)
- 15-102. **WATER DEPARTMENT.** The water department shall consist of the governing body, the city superintendent and other officers and employees of the city devoting all or part of their time to the conduct of the water department. The governing body shall maintain, manage, conduct, and control the water system and the department, and make all such ordinances, rules, and regulations as may be necessary for the safe, economical, and efficient management of the water system. (Code 1968, 14-102; Code 1990)
- 15-103. **CITY SUPERINTENDENT.** The city superintendent shall have charge of the maintenance and operation of the water plant and distribution system, all meters, and all other appurtenances of the water system. He or she shall supervise all extensions and alterations of the system as the governing body may direct. He or she shall be responsible for the reading of the meters if no meter readers are employed; and if meter readers are employed he or she shall see that they perform their duties promptly and honestly. He or she shall report monthly to the governing body upon all matters concerning the system over which he or she has charge and in such detail as the governing body may from time to time direct. He or she shall be under the general direction and supervision of the water committee. The superintendent shall keep up-to-date maps of the water system, showing the exact location of all water lines, service connections and other physical equipment of the system. He or she shall perform such other and further duties as the governing body may direct. (Code 1968, 14-103; Code 1990)
- 15-104. **EMPLOYEES.** The employment of regular employees shall be by the governing body. The governing body may authorize the water committee or the city superintendent to employ needed help temporarily. All employees shall be under the immediate control and management of the city superintendent. (Code 1968, 14-104; Code 1990)
- 15-105. **DEFINITIONS.** (a) Owner - means the owner of the real property connected or to be connected to the water system.

- (b) Customer - is the party in whose name the account is carried.
- (c) Consumer - is the party using the water.
- (d) Suburban Customer - is a customer that resides outside the corporate limits of the city but that can be supplied from lines located within the corporate limits used in supplying other customers residing within the corporate limits.
(Code 1968, 14-105)

15-106. APPLICATION AND CONTRACT FOR SERVICE CONNECTION. Before any connection is made to any distributing line, an application for a permit must be made in writing by the owner to be connected or by his or her or their authorized representative at the office of the city clerk. Such application shall be made on forms provided by the water department and shall contain such information as the superintendent may require. If there is no distributing line to which a connection can be made, the requirements in regard to extensions must be met before the application for service connection will be accepted. (Code 1968, 16-106)

15-107. EXTENSION OF LINES. The city may extend its water lines without the city by construction or purchase, when applications have been made and agreements entered into by persons along the proposed extension that will produce a revenue in the judgment of the governing body sufficient to pay interest on the cost of the extension, and the operation cost of the services; provided, that the city may make extensions within the city without applications having been made, if the condition of the water fund will permit; provided further, that the city may at its option require any proposed customer situated outside the city limits to whom it may decide to sell water to construct his or her own connection to a water line within the city limits at his or her own expense and to maintain at his or her own expense.
(Code 1968, 14-107)

15-108. WATER SERVICE CONNECTION; FEE. After a permit for a water service connection has been issued and before the connection is made, the owner shall pay the following permit fee for tapping the main, the installation of the service pipe from the main to the service cock, the service cock and the stop box, the materials to be furnished and work done by employees of the department; provided, that the water mains shall be considered to be in the middle of the street and the city will bring the water service line from the main to the property line of the owner at its own expense:

- (a) 3/4 inch - 5/8 inch service line - \$375.00.
- (b) 1 inch service line - \$475.00.
- (c) 1 ½ inch service line - \$1,200.00.
- (d) All lines larger than 1 ½ inch to be billed at time and material.

In addition to the fees above, each property owner will have to pay for any street repair, provided that extra charges will be made where it is necessary to go under paving or surfacing, and additional expense is incurred.
(Ord. 1179, Sec. 1; Code 2005)

15-109. WATER SERVICE MAINTENANCE. The property owner shall at his or her own expense, install the water service connection from the proper line to his or her premises and shall repair, replace, and remove all such lines at his or her own

expense, as required by the superintendent to prevent loss to the city or damage to the public. When the owner shall fail promptly to repair lines on his or her own premises, the service may be disconnected by the superintendent until repairs are made or the condition causing loss or damage shall be corrected.
(Code 1968, 14-109)

15-110. MATERIALS OF PIPE AND INSTALLATION. All pipe and other materials, curb cocks and curb boxes shall meet the requirements of the plumbing ordinance of the city and shall be installed in such places and manner as shall be recommended and approved by the superintendent. The curb boxes shall in all cases be placed upon public property and shall control the supply through only one meter. It shall be the duty of the consumer to keep the curb box in serviceable condition.
(Code 1968, 14-110)

15-111. MUST OBTAIN PERMIT. A permit must be obtained from the office of the city superintendent before any main or lateral of the city may be tapped. In case of new construction this permit is issued in conjunction with the sewer permit. A permit must be issued also for all changes to be made in water pipes, including the installation of all appliances. All work must be done by licensed plumbers and must be inspected by the city inspector. (Code 1968, 14-111; Code 1990)

15-112. METERS; LOCATION AND INSTALLATION. The water department reserves the right to designate the location of all water meters, and the expenses incident to the changing location of meters to conform to such request of the water department, shall be borne by the property owner, or person in whose name the service is being supplied. Only employees of the city shall tap the main, remove or repair meters; provided, that all water meters shall be installed in a vertical position in a location protected from freezing and easily accessible for reading as approved by the superintendent. When placed underground they must have an approved extension dial properly protected by an approved meter box or vaults, constructed of parts furnished by or approved by the department and shall be installed as directed by the superintendent. (Code 1968, 14-113)

15-113. METER SEALS; BREAKING OF UNLAWFUL; USE OF METER. The city reserves the right to seal all water meters and any person who shall without authority, break the seals of any such meters, altering the registers and mechanism thereof, make connections in any manner so that water supplied by the department may be taken or used without being metered or wasted without being supplied under the regulations applying to the use of water shall be subject to a fine of not more than \$500.00 for resealing each meter so broken or reconnecting the service lines as to cause the water to be metered, and upon a second offense the service may be disconnected by the superintendent. (Code 1968, 14-114)

15-114. METERS; OWNERSHIP. Meters shall be furnished by the department and shall remain the property of the city, and the department shall keep the meter in good repair unless damaged or injured for some cause other than natural wear and tear. If the meter is damaged by rough use, or any cause whatever other than by

natural wear and tear, the customer shall be charged for the repair and the amount shall be placed upon the water bill of the customer for the succeeding month and shall be collected with the bill, and if not paid within the time provided for the payment of bills, the service shall be disconnected until the charge is paid.
(Code 1968, 14-115)

- 15-115. INSPECTION OF METER. It shall be the duty of the superintendent to cause all meters to be inspected at least once each year and at such other times as may be deemed necessary, and the employees of the department are authorized at reasonable hours to enter upon the premises of the customers for the purpose of repairing, replacing or inspecting the meters in service. If any meter is found to vary in excess of two percent from 100 percent accuracy, the reading of the meter shall be corrected according to the percentage of inaccuracy found but no correction shall extend beyond the date of the last regular monthly reading. Where service is rendered a consumer through a defective meter, the charge for such service shall be based upon the estimated consumption. (Code 1968, 14-116)
- 15-116. NATURE OF APPLICATION FOR SERVICE. When any party shall make an application for water service upon the blank furnished by the department, he or she shall state fully and thoroughly the purposes for which the services are requested. Upon granting of the application, by issuing the desired permit, the applicant shall be deemed to have agreed to the rates, rules, and regulations provided by ordinance for the supplying of water services and the same shall constitute and be considered a part of the contract with every person who is supplied with water by the water department of the city, and such person herein called the consumer and customer, who expresses their uses for water shall be held to have consented to be bound thereby. (Code 1968, 14-117)
- 15-117. WATER SOLD BY METER MEASURE. Water shall be sold by meter measure and the amount of water consumed shall be determined by standard meters, except under conditions as otherwise specified in this chapter or other ordinances.
(Code 1968, 14-118; Code 1990)
- 15-118. DISCONTINUANCE OF UTILITY SERVICE; WHEN. (a) The city may discontinue or refuse a particular utility service to any customer, without notice or hearing, for any for the following reasons:
 (1) When the customer so requests.
 (2) When it is determined by an employee of the city utility department, fire department or police department that the continuance of a particular utility service constitutes a dangerous condition presenting a likely immediate threat to health or safety of persons or to property on or near the customer's premises.
 (b) The city may discontinue or refuse a particular utility service to any customer, following compliance with the notice and hearing requirements of section 15-121 of this article, for any of the following reasons:
 (1) Nonpayment of utility bills and charges as provided in section 15-121.

(2) When the customer misrepresents his or her identity or otherwise intentionally provides false information for the purpose of obtaining utility services from the city.

(c) The city may discontinue or refuse a particular utility service to any customer, following notice to the customer, for any of the reasons set out in this subsection. The customer shall have the right to a hearing within a reasonable time, not to exceed 10 days, following termination or refusal of service. If after such hearing the hearing officer finds in favor of the customer the hearing officer may order connection or reconnection of the service at no cost to the customer.

(1) When the customer refuses to grant employees of the city's utility department access to equipment installed upon the premises of the customer for the purpose of inspection, meter reading, maintenance or replacement.

(2) When the customer violates any rule, regulation or ordinance of the city pertaining to utility services, which violation adversely affects the safety of the customer or other persons, or the integrity of the city's utility services' delivery system

(3) When the customer attempts, causes or permits unauthorized interference, diversion, theft, tampering, damage or use of utility services or the utility services' delivery system situated or delivered on or about the customer's premises. (Ord. 1029, Sec. 2; Code 2005, 15-120)

15-119. UTILITY BILLING DATES; DELINQUENCY DATE. All utility service bills including all water and sanitary sewer bills shall be due and payable on the 1st day of each month for utility service consumed in the preceding month and all such utility accounts shall be paid on or before the 15th day of the same month following the due date and payable, and a penalty of 5% of the amount due shall be added to the amount of each bill not paid on or before the 15th day which shall be collected when the bill is finally paid. In the event that the full payment of all charges and penalties due is not made on or before the 25th day of the month in which the charges and penalties are due, the superintendent shall immediately discontinue utility service, subject to the provisions and requirements contained herein, and before the service shall be restored, the consumer shall pay the charges and the penalty and further shall pay a fee for re-connection of such utility service in such matters as is prescribed by resolution of the Governing Body of the city, pursuant to Section 15-123. (Ord. 1230, Sec. 1; Code 2006)

15-120. NONPAYMENT OF UTILITY BILLS. (a) An account delinquency and service discontinuance notice shall be issued in writing on the 16th day of the month with respect to any delinquent and unpaid utility service bill. Notice shall be sent by U.S. mail, first class, to the customer (and a copy also sent by U.S. mail, first class, to the occupant of the premises served if the occupant is not the customer) at the last known address of the customer as shown on the records of the city. Written notice may also be provided by personal service upon the customer by an employee of the city utility department or by any city law enforcement officer or by such city employee posting the written notice upon a door of a building upon the property serviced.

(b) The notice of account delinquency and service discontinuance shall provide the following information:

- (1) Name of customer and address where service is being provided.
 - (2) Account number.
 - (3) Amount past due plus delinquency charges.
 - (4) Notice that utility service shall be terminated upon failure to pay the delinquent billing plus delinquency charges within 10 days of the date of the mailing of the notice.
 - (5) Notice that the customer has the right to appear and be heard at a hearing on the hearing date set by the city.
- (c) The notice of account delinquency and service discontinuance shall be substantially in the following form:

NOTICE OF ACCOUNT DELINQUENCY AND SERVICE DISCONTINUANCE, TO: _____ your (water and/or sanitary sewer service) bill in the amount of \$_____ which was due _____, 200____, remains unpaid and is now delinquent.

The delinquency charge to be added to your bill is \$_____. You are hereby notified that the city intends to terminate your service on _____ at _____ (a.m.) (p.m.), unless you pay the amounts due as above stated or unless good cause be shown why such service should not be terminated. You are further notified that you are to appear in the Ellis City Hall on the _____ day of _____, 200____ (a.m.) (p.m.), then and there to show good cause as to why your service should not be terminated for nonpayment of charges. Should you fail to attend the hearing or fail to request at least 24 hours prior to the above hearing date that the hearing be rescheduled, then you are notified that immediately following the hearing date such service or services shall be discontinued. Dated _____, 200____, City of Ellis, Kansas, By:_____.

(d) Any utility customer receiving a notice of account delinquency and service discontinuance shall have the right to a hearing prior to disconnection. At such hearing, the applicant customer, and the city, shall have the right to present such evidence as is pertinent to the issue, may be represented by counsel, and may examine and cross-examine witnesses, however formal rules of evidence shall not be followed. The hearing shall be conducted by the mayor or such other hearing officer as may be appointed by and with the consent of the governing body. In the event the hearing officer finds utility service(s) should not be discontinued, the hearing officer shall so order and advise the city thereof. In the event the hearing officer finds utility service(s) should be discontinued, the hearing officer shall so order and advise the city thereof. Unless otherwise ordered by the hearing officer, utility service(s) shall be discontinued on the date that the order of discontinuance is issued by the hearing officer. Extensions of the date of discontinuance may be granted to enable the customer to make arrangements for reasonable installment payments or for other good cause shown. The customer shall be given notice of order of discontinuance in person, or by certified mail. In making a determination of whether discontinuance should be ordered, the hearing officer shall consider, but not be limited to, the following factors: Whether discontinuance is dangerous to the health of the customer, the customer's family or any other residents of the premises affected; the weather; unforeseen financial

hardship of the customer; and the medical considerations, ages or disability of the customer, the customer's family or other residents of the premises. (Ord. 1029, Sec. 4; Code 2005, 15-122)

15-121. DISCONTINUANCE OF UTILITY SERVICES. City utility departments are hereby authorized to discontinue and disconnect utility services to any customer pursuant to the procedure set out in this article. Customers shall remain responsible for furnishing the city with the correct address for billing purposes. (Ord. 1029, Sec. 5; Code 2005, 15-123)

15-122. LIEN UPON CUSTOMER'S PROPERTY. In the event any person shall neglect, fail or refuse to pay within 10 days following notice of discontinuance the utility billings and delinquency charges due the city, such billings and charges shall constitute a lien upon the real property served by the connection to the utility service, and shall be certified by the city clerk to the county clerk of Ellis County, Kansas, to be placed on the tax roll for collection, subject to the same penalties and collected in like manner as other taxes are by law collectible. (Ord. 1029, Sec. 6; Code 2005, 15-124)

15-123. RECONNECTION FEES. Reconnection Charges. Prior to reconnecting a utility service disconnected following a delinquency, the customer shall pay to the city the entire balance due and owing to the city at the time of reconnection. The customer shall also pay a reconnection charge in such amount as has been established by resolution of the governing body of the city. (Ord. 1029, Sec. 7; Code 2005, 15-125)

15-124. MISCELLANEOUS USES. Contractors and others having use for water for construction of buildings and other improvements or other use shall make application to the city clerk (or proper officer) for such service and shall make such deposit as the superintendent may require, based upon estimated use of water, and the city shall furnish a portable meter for metering the same, which meter shall be under the charge and control of the department only and such contractor or other person shall pay such charges for connection as the superintendent may require. (Code 1968, 14-122; Code 2005, 15-126)

15-125. SERVICE CONNECTIONS FOR EACH PROPERTY; EXCEPTION. Each property shall have its own service connection except that joint service across or along the public streets may be allowed when the property to be served does not abut the street along which the distributing line is located. Any premises occupied as a duplex, apartment house or other multi-unit dwelling, or occupied in conjunction with a store or such other building and served from one connection, each consumer shall pay a minimum charge for each apartment, unless provision is otherwise made with the superintendent. The city will contract with only one of the several parties, and on his or her failure to pay or abide by the regulations, the water may be cut off; provided, that all multiple-service connections shall be approved by the superintendent and he or she may require separate water meters to be installed for each consumer. (Code 1968, 14-123; Code 2005, 15-127)

- 15-126. CONSUMERS NOT TO SUPPLY OTHER PARTIES. No consumer shall supply water in any way (by sale, gift or otherwise) to any other person or party without the written permit from the superintendent. (Code 1968, 14-124; Code 2005, 15-128)
- 15-127. NOTICE TO DISCONTINUE SERVICE. A customer shall give the department proper notice before discontinuing service; and upon failure to give such notice he or she shall be liable for the water registered by the meter or the minimum bill until such time as the notice is given. (Code 1968, 14-125; Code 2005, 15-129)
- 15-128. INSPECTION OF PREMISES. The superintendent or any of his or her authorized agents shall have free access at all reasonable hours to inspect any premises supplied with water. No person shall refuse to admit authorized agents of the department to any premise for such purpose. In case any authorized employee is refused admittance, or is in any way hindered in making the necessary inspection or examination, the water may be turned off from such premises after giving 24 hours' notice to the owner or occupant thereof. (Code 1968, 14-126; Code 2005, 15-130)
- 15-129. RESPONSIBILITY IN TURNING ON WATER. In turning on water the city or the water department or the officers or employees thereof, shall not be responsible for any damage that may occur by reason of improper fixtures, or improper connections, or for any other causes. (Code 1968, 14-127; Code 2005, 15-131)
- 15-130. SHUTTING OFF WATER. The city hereby reserves the right at any time without notice to shut off the water for the purpose of making repairs or extensions, or for other purposes. (Code 1968, 14-128; Code 2005, 15-132)
- 15-131. CITY DOES NOT GUARANTEE SERVICE. The city does not guarantee the delivery of water at any time except only when its plants and distribution systems are in good working order and the supply of water sufficient for the usual demands of its consumers as the case may be. (Code 1968, 14-129; Code 2005, 15-133)
- 15-132. ACCESS TO PROPERTY. The superintendent and his or her duly authorized assistants shall have free access at all reasonable hours to any premises where it may be necessary to ascertain the reading of the meters, location or condition of lines or other fixtures attached to the water system or to shut off or turn on water from or to any premises, or for the purpose of seeing that rules and regulations of this article are observed or for any other purpose that the superintendent may deem essential for the operation of the system, prevention of waste, or protection of revenue for the water plant; and for failure of any consumer or owner to abide by this provision of this article, the water service may be discontinued. (Code 1968, 14-130; Code 2005, 15-134)

- 15-133. TAKING WATER WITHOUT AUTHORITY. It shall be unlawful for any person to take any water from the municipal water system except when it is drawn through a meter installed by the city, except as otherwise specified herein.
(Code 1968, 14-131; Code 2005, 15-135)
- 15-134. UNLAWFUL ACTS. Any person who shall willfully or wantonly destroy, injure, deface or in any way harm any water pipe, hydrant, faucet, valve, meter or meter box, placed in the city for its use or the use of the public or located on property not his or her own, and who shall take any water any hydrant, faucet, or pipe on any park, street, or in any public room or building in the city, or on any property not his or her own, except for use on the premises, without the proper authority to do so, or who shall carry off any pipe, wires, tools, apparatus, fueling, or any other property or equipment belonging to the city or who shall open any fire plug or water hydrant or other water pipe belonging to the city and permit or allow water to be turned out of or run out upon the ground, without lawful authority to do so, shall upon conviction therefore be fined as provided in section 1-116 of this code.
(Code 1968, 14-132; Code 2005, 15-136)
- 15-135. CROSS-CONNECTIONS PROHIBITED. (a) Purpose. The purpose of this section is to protect the public water supply of the city from contamination due to backflow or backsiphonage from any cross connection; and to prohibit and eliminate all cross connections to the public water supply; and to provide for the maintenance of a continuing effective cross connection control program. This program shall include regularly scheduled inspections to detect and eliminate current cross connections as well as to prevent any future cross connections.
(b) No person shall establish or permit to be established or maintain or permit to be maintained, any cross connection whereby a private water supply, or any source of contamination may enter the regular public supply of the city unless the source is approved by the city council and the Kansas Department of Health and Environment. (Ord. 1058, Secs. 1:2; Code 2005, 15-137)
- 15-136. SAME; PROTECTIVE BACKFLOW DEVICES REQUIRED. Approved devices to protect against backflow or backsiphonage shall be installed at all fixtures and equipment where backflow or backsiphonage may occur and where there is a hazard of contamination of the potable water supply system.
(Ord. 1058, Sec. 3; Code 1998; Code 2005, 15-138)
- 15-137. SAME; INSPECTION. The city superintendent or other designate of the city council shall have the right of entry into any building or premises in the city as frequently as necessary in order to ensure that plumbing has been installed in a manner as to prevent the possibility of contamination of the public water supply of the city. (Ord. 1058, Sec. 4; Code 1998; Code 2005, 15-139)
- 15-138. SAME; PROTECTION FROM CONTAMINANTS. Pursuant to the authority given under home rule powers and K.S.A. 65-163a, the city may refuse to deliver water to any premises where a condition exists which might lead to the contamination of the public water and may continue to refuse to deliver water until

that condition is corrected to the satisfaction of the city. In addition, the city may immediately terminate water service to a premises where a backflow or backsiphonage condition exists which may be hazardous to the health of customers served by this public water supply system of the city.
(Ord. 1058, Sec. 5; Code 1998; Code 2005, 15-140)

- 15-139. SAME; INCORPORATION BY REFERENCE. There is hereby incorporated by reference for the purpose of regulating cross connections between the public water supply and any sources of contamination that certain manual adopted by the governing body of the city, known as, Manual of Regulations Regulating Backflow and Backsiphonage of Contaminants Due to Cross Connections for the City of Ellis, Kansas, Public Water Supply. No fewer than three copies of the manual shall be marked or stamped, "Official Copy as Adopted by Ordinance No. 1058", and filed with the city clerk to be open to inspection and available to the public at all reasonable hours. (Ord. 1058, Sec. 6; Code 1998; Code 2005, 150141)

ARTICLE 2. UTILITY ACCOUNTING

- 15-201. ACCOUNTING RECORDS. It shall be the duty of the city council to provide and establish a complete system of accounting for the management, control and operation of the city water department as shall be approved by the state municipal accounting board for municipal utility departments.
(Code 1968, 14-201; Code 1998)
- 15-202. WATER FUND. There shall be and is hereby created in the city treasury a fund to be known as the water fund. The city treasurer shall keep the fund separate and distinct from the other funds of the city and shall credit thereto all moneys coming to the city by virtue of the ownership and operation of the water department of the city and shall account for all the revenue credited thereto and payment of all funds therefrom as directed by the city council. All warrants drawn on the city treasurer for payment of any claims properly chargeable to the water fund shall show on their face by stamp or other intelligible mark that they are to be charged to and payable out of the fund. (Code 1968, 14-202; Code 1998)
- 15-203. CUSTOMER'S ACCOUNTS; DUTY OF CITY CLERK. The water department shall maintain a system of accounts which shall show all moneys due the city for any water furnished and sold any customer by the department. Such accounts shall be kept in the name of each customer separately and each customer's account shall show the charges made for water, the Kansas retailer's sales tax due, other charges and penalties, rebates and all other financial transactions between the city and each customer, except as may be required to be kept by the city clerk, city treasurer, or other officers. The city shall read all water meters keeping a record of such meter readings, and compute therefrom the customer's monthly bills, showing the amounts due from each customer for water sold and supplied by the city, and he or she shall deliver the same to the city clerk for collection.
(Code 1968, 14-204; Code 1990)
- 15-204. COLLECTION OF ACCOUNTS; DUTY OF CITY CLERK. The city clerk shall by virtue of his or her office be the collector for the water department and all such accounts shall be payable at his or her office upon bill rendered therefore by him or her. Upon the payment of any such bill, he or she shall issue a receipt for the same and shall deposit all money received therefrom in the city treasury to the credit of the water fund. (Code 1968, 14-205)
- 15-205. OFFICE HOURS OF CITY CLERK. The city clerk's office shall be open for the payment of all water bills as aforesaid during the usual business hours except any day observed as a holiday in the city or as otherwise directed by the city council.
(Code 1968, 14-207; Code 1990)
- 15-206. CLAIMS AGAINST THE CITY. All claims and accounts against the city by reason of the operation of the water department shall be filed with the city clerk. It

shall be his or her duty to examine in detail all such bills, accounts and claims against the city and shall present the same to the council at its next regular meeting for allowance. Upon allowance of any such bill or claim by the city council, the same shall be paid in the regular way as provided by law. (Code 1968, 14-208)

15-207. WATER RATES. (a) The following rates shall be charged for water sold by the City to regular customers receiving water service therefrom; said water shall be sold on meter basis and bills therefore rendered monthly:

(1) 3/4" - 5/8" meter: a minimum monthly charge of \$32.13 shall be charged and, in addition thereto, a charge of \$3.25 per 1,000 gallons of water used.

(2) 1" meter: a minimum monthly charge of \$36.50 shall be charged and, in addition thereto, a charge of \$3.25 per 1,000 gallons of water used.

(3) 1 1/2" - 2" meter: a minimum monthly charge of \$44.43 shall be charged and, in addition thereto, a charge of \$3.25 per 1,000 gallons of water used.

(4) Greater than 2" meter: a minimum monthly charge of \$56.63 shall be charged and, in addition thereto, a charge of \$3.25 per 1,000 gallons of water used.

(B) The City reserves the right to establish, by contract or formal City Council action, varied rates for customers deemed unique by the City. (Ord. 1254, Sec. 1; Code 2007)

ARTICLE 3. SEWAGE DISPOSAL

DIVISION 1. GENERALLY

- 15-301. CITY EXEMPTS SELF FROM DESIGNATED STATUTES. The city by the power invested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to make inapplicable to it and exempt itself from K.S.A. 14-567 et seq., K.S.A. 12-631 et seq., and any and all amendments thereto which apply to the city, but not uniformly to all cities, and provides substitute and additional provisions on the same subject as hereinafter provided. (Code 1968, 14-401)
- 15-302. DEFINITIONS. Unless the context specifically indicates otherwise, the meaning of terms used in Division 1 through 4 of this article shall be as follows:
- (a) BOD (denoting biochemical oxygen demand) - shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five days at 20 degrees centigrade, expressed in milligrams per liter.
 - (b) Building Drain - shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (1.5 meters) outside the inner face of the building wall.
 - (c) Building Sewer - shall mean the extension from the building drain to the public sewer or other place of disposal.
 - (d) Combined Sewer - shall mean a sewer receiving both surface runoff and sewage.
 - (e) Garbage - shall mean the solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.
 - (f) Industrial wastes - shall mean the liquid wastes from industrial manufacturing processes, trade or business as distinct from sanitary sewage.
 - (g) Natural Outlet - shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
 - (h) Person - shall mean any individual, firm, company, association, society, corporation, or group.
 - (i) pH - shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
 - (j) Properly Shredded Garbage - shall mean the waste from the preparation, cooking and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (1.27 centimeters) in any dimension.
 - (k) Public Sewer - shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
 - (l) Sanitary Sewer - shall mean a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.

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

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

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

(p) Sewer - shall mean a pipe or conduit for carrying sewage.

(q) Shall - is mandatory; May is permissive.

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

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

(t) Superintendent - shall mean the city superintendent or superintendent of sewage works, and/or of water pollution control of the city, or his or her authorized deputy, agent or representative.

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

(v) Watercourse - shall mean a channel in which a flow of water occurs, either continuously or intermittently. (Code 1968, 14-402)

15-303. UNSANITARY OBJECTIONABLE DEPOSITS PROHIBITED. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the city, or in any area under the jurisdiction of the city, any human or animal excrement, garbage, or other objectionable waste. (Code 1968, 14-403)

15-304. DAMAGING, TAMPERING WITH, ETC., SEWAGE WORKS. No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct. (Code 1968, 14-404)

15-305. SEPTIC TANKS, CESSPOOLS, ETC., PROHIBITED GENERALLY. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage. (Code 1968, 14-405)

15-306. CONNECTION REQUIRED WHERE PUBLIC SEWER AVAILABLE. The owner of all houses, buildings or properties used for human employment, recreation or other purposes, situated within the city and abutting on any street, alley to right-of-way in which there is now located or may in the future be located a public sanitary or combined 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 Divisions 1 through 4 of this article, within 90 days after date of official notice to do so, provided that the public sewer is within 100 feet (30.5 meters) of the property line. (Code 1968, 14-406)

15-307. RIGHT OF CITY TO ENTRY FOR PURPOSES OF INSPECTION, MEASUREMENT, ETC. The superintendent and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of Divisions 1 through 4 of this article. The superintendent or his or her representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment. (Code 1968, 14-407)

15-308. RIGHT OF CITY TO ENTER PROPERTY THROUGH WHICH CITY HOLDS EASEMENT. The superintendent and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within the easement. All entry and subsequent work, if any, on the easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved. (Code 1968, 14-408)

15-309. OBSERVANCE OF SAFETY RULES BY SUPERINTENDENT. While performing the necessary work on private properties referred to in section 15-307, the superintendent or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the city employees and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in section 15-337. (Code 1968, 14-409)

15-310. PENALTIES FOR VIOLATION. (a) Any person found to be violating any provision of Divisions 1 through 4 of this article except section 15-304 shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(b) Any person who shall continue any violation beyond the time limit provided for in subsection (a) shall be guilty of a code violation and on conviction thereof shall be fined in the amount not exceeding \$100.00 for each violation.

Each 24-hour period in which any such violations shall continue shall be deemed a separate offense.

(c) Any person violating any of the provisions of Divisions 1 through 4 of this article shall become liable to the city for any expense, loss, or damage occasioned by the city by reason of such violation. (Code 1968, 14-410)

DIVISION 2. PRIVATE SEWAGE DISPOSAL SYSTEMS

- 15-311. **REQUIRED WHEN PUBLIC SEWER NOT AVAILABLE.** Where a public sanitary or combined sewer is not available under the provisions of section 15-306, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this division. (Code 1968, 14-421)
- 15-312. **PERMIT REQUIRED; APPLICATION, INFORMATION REQUIRED, PERMIT AND INSPECTION FEE.** Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit signed by the city clerk. The application for such permit shall be made on a form furnished by the city, which the applicant shall supplement by any plans, specifications and other information as is deemed necessary by the superintendent. A permit and inspection fee of \$50.00 shall be paid to the city at the time the application is filed. (Code 1968, 14-422)
- 15-313. **INSPECTION.** A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the superintendent. He or she shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 48 hours of the receipt of notice by the superintendent. (Code 1968, 14-423)
- 15-314. **COMPLIANCE WITH STATE DEPARTMENT OF PUBLIC HEALTH REQUIRED.** The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Public Health of the State of Kansas. 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 (43,560 square feet). No septic tank or cesspool shall be permitted to discharge to any natural outlet. (Code 1968, 14-424)
- 15-315. **CONSTRUCTION.** No statement contained in this division shall be construed to interfere with any additional requirements that may be imposed by the building inspector. (Code 1968, 14-425; Code 1990)
- 15-316. **OPERATION AND MAINTENANCE.** The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city. (Code 1968, 14-426)

15-317. CONNECTION TO PUBLIC SEWER REQUIRED WHEN AVAILABLE; ABANDONMENT. (a) At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in section 15-314, a direct connection shall be made to the public sewer in compliance with Divisions 1 through 4 of this article and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

(b) When a public sewer becomes available, the building sewer shall be connected to the sewer within 60 days and the private sewage disposal system shall be cleaned of sludge and filled with clean back-run gravel or sand.
(Code 1968, 14-427)

DIVISION 3. BUILDING SEWERS AND CONNECTIONS

- 15-318. PERMIT; REQUIRED. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the city clerk. (Code 1968, 14-431)
- 15-319. SAME; CLASSES, APPLICATION, PERMIT AND INSPECTION FEE. There shall be two classes of building sewer permits (a) for residential and commercial service; and (b) for service to establishments producing industrial wastes. In either case, the owner or his or her agents shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the superintendent. A permit and inspection fee of \$50.00 for a residential or commercial building sewer permit and \$100.00 for an industrial building sewer permit shall be paid to the city at the time the application is filed. (Code 1968, 14-432)
- 15-320. OWNER TO BEAR COSTS, INDEMNIFY CITY FROM LOSS OR DAMAGE. All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. (Code 1968, 14-433)
- 15-321. SEPARATE CONNECTIONS REQUIRED; EXCEPTION. 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 constructed to the rear building through an adjoining alley, courtyard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer. (Code 1968, 14-434)
- 15-322. USE OF 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 superintendent, to meet all requirements of Divisions 1 through 4 of this article. (Code 1968, 14-435)
- 15-323. CONSTRUCTION SPECIFICATIONS GENERALLY. The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, joint, testing and backfilling the trench shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specification of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply. (Code 1968, 14-436)
- 15-324. CONNECTION SPECIFICATIONS GENERALLY. The connection of the building sewer into the public sewer shall conform to the requirements of the

building and plumbing code or other applicable rules and regulations of the city or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation. (Code 1968, 14-437)

15-325. SUPERINTENDENT TO SUPERVISE CONNECTIONS. The applicant for the building sewer permit shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the superintendent or his or her representative. (Code 1968, 14-438)

15-326. ELEVATION. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drainage is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer. (Code 1968, 14-439)

15-327. PROHIBITED CONNECTIONS. No person shall make connection of roof downspouts, interior and exterior foundation drains, areaway drains or other sources of surface runoff of groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. (Code 1968, 14-440)

15-328. EXCAVATIONS TO BE GUARDED; RESTORATION OF PUBLIC PROPERTY.

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city. (Code 1968, 14-441)

DIVISION 4. REGULATION OF DISCHARGES

- 15-329. **PROHIBITED DISCHARGES TO NATURAL OUTLETS; EXCEPTION.** It shall be unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of the city, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of Divisions 1 through 4 of this article. (Code 1968, 14-451)
- 15-330. **PROHIBITED DISCHARGES TO ANY PUBLIC SEWER.** No person shall discharge or cause to be discharged any of the following described wastes or wastes to any public sewers:
- (a) Any gasoline, benzene, naphtha, oil, fuel oil, or other flammable or explosive liquids, solid or gas.
 - (b) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure to interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two milligram per liter as CN in the wastes as discharged to the public sewer.
 - (c) Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works.
 - (d) Solid or viscous substances in quantities or of flush size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sands, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders. (Code 1968, 14-452)
- 15-331. **PROHIBITED DISCHARGES TO SANITARY SEWER.** No person shall discharge or cause to be discharged any storm waters, surface water, ground water, roof runoff, subsurface drainage, including interior and exterior foundation drains, or unpolluted industrial process waters to any sanitary sewer. (Code 1968, 14-453)
- 15-332. **UNPOLLUTED DISCHARGES.** Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm waters, or to a natural outlet approved by the superintendent. Industrial cooling water or unpolluted process waters may be discharged on approval of the superintendent, to a storm sewer, combined sewer, or natural outlet. (Code 1968, 14-454)
- 15-333. **DISCHARGES WHICH MAY BE PROHIBITED BY THE SUPERINTENDENT.**
No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely in the opinion of the

superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his or her opinion as to the acceptability of these wastes, the superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of sewer treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

(a) Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit (65 degrees centigrade).

(b) Any water or wastes containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 milligrams per liter or containing substances which may solidify or become viscous at temperatures between 32 and 150 degrees Fahrenheit (zero and 65 degrees centigrade).

(c) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of one-half horsepower or greater shall be subject to the review and approval of the superintendent.

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

(e) Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the superintendent for such materials.

(f) Any waters or wastes containing phenols or other taste- or odor-producing substances, in such concentrations exceeding limits which may be established by the superintendent as necessary, after treatment of the composite sewage, to meet the requirements of state, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

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

(h) Any waters or wastes having a pH in excess of 9.5.

(i) Materials which exert or cause:

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

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

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

(4) Unusual volume of flow or concentration of wastes constituting slugs as defined herein.

(j) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant

effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

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

(Code 1968, 14-455)

15-334. SUPERINTENDENT'S OPTIONS WITH RESPECT TO HAZARDOUS WASTES. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in section 15-333, and which in the judgment of the superintendent, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or otherwise create a hazard to life or constitute a public nuisance, the superintendent may:

(a) Reject the wastes;

(b) Require pretreatment to an acceptable condition of discharge to the public sewers;

(c) Require control over the quantities and rates of discharge; and/or

(d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of section 15-339.

If the superintendent permits the pretreatment to equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the superintendent, and subject to the requirements of all applicable codes, ordinances and laws.

(Code 1968, 14-456)

15-335. GREASE, OIL AND SAND INTERCEPTORS. Grease, oil and sand interceptors shall be provided when, in the opinion of the superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the superintendent and shall be located as to be readily and easily accessible for cleaning and inspection.

(Code 1968, 14-457)

15-336. MAINTENANCE OF PRELIMINARY TREATMENT OR FLOW-EQUALIZING FACILITIES. Where preliminary treatment or flow-equalizing facilities are provided

for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his or her expense. (Code 1968, 14-458)

15-337. CONTROL MANHOLES. When required by the superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the superintendent. The manhole shall be installed by the owner at his or her expense, and shall be maintained by him or her so as to be safe and accessible at all times.
(Code 1968, 14-459)

15-338. MEASUREMENTS, TESTING AND ANALYSIS. All measurements, tests and analysis of the characteristics of water and wastes to which reference is made in Divisions 1 through 4 of this article shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Waste water," published by the American Public Health Association, and shall be determined at the control manhole provided or upon suitable samples taken at the control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. (The particular analysis involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analysis are obtained from 24-hour composites of all outfalls whereas pH's are determined from periodic grab samples. (Code 1968, 14-460)

15-339. SPECIAL AGREEMENTS. No statement contained in Divisions 1 through 4 of this article shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment therefore, by the industrial concern. (Code 1968, 14-461)

DIVISION 5. USER CHARGE SYSTEM

15-340. DEFINITIONS. Unless the context specifically indicates otherwise, the meaning of terms used in this division shall be as follows:

(a) BOD (denoting biochemical oxygen demand) - shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees centigrade, expressed in milligrams per liter (mg/l).

(b) Normal Domestic Wastewater - shall mean wastewater that has a BOD concentration of not more than 240 milligrams per liter and a suspended solids concentration of not more than 300 milligrams per liter.

(c) Operation and Maintenance - shall mean all expenditures during the useful life of the treatment works for materials, labor, utilities and other items which are necessary for managing and maintaining the sewage works to achieve the capacity and performance for which such works were designed and constructed.

(d) Replacement - shall mean expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed. The term operation and maintenance includes replacement.

(e) Residential Contributor - shall mean any contributor to the city's treatment works whose lot, parcel or real estate, or building is used for domestic dwelling purposes only.

(f) Shall - is mandatory; May is permissive.

(g) SS (denoting suspended solids) - shall mean solids that either float on the surface of, or are in suspension in water, sewage, or other liquids and which are removable by laboratory filtering.

(h) Treatment Works - shall mean any devices and systems for the storage, treatment, recycling, and reclamation of municipal sewage, domestic sewage, or liquid industrial wastes. These include intercepting sewers, outfall sewers, sewage collection systems, individual systems, pumping, power, and other equipment and their appurtenances; extensions improvement, remodeling, additions and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment (including land for composting sludge, temporary storage of such compost, and land used for the storage of treated wastewater in land treatment systems before land application); or any other method or system for preventing, abating, reducing, storing, treating, separating or disposing of municipal waste or industrial waste, including waste in combined storm water and sanitary sewer systems.

(i) Useful Life - shall mean the estimated period during which a treatment works will be operated.

(j) User Charge - shall mean that portion of the total wastewater service charge which is levied in a proportional and adequate manner for the cost of operation, maintenance and replacement of the wastewater treatment works.

(k) Water Meter - shall mean a water volume measuring and recording device, furnished and/or installed by the city or furnished and/or installed by a user and approved by the city.
(Code 1968, 14-471)

15-341. FINDINGS; USE OF PROCEEDS. It is determined and declared to be necessary and conducive to the protection of the public health, safety, welfare and convenience of the city to collect charges from all users who contribute wastewater to the city's treatment works. The proceeds of such charges so derived will be used for the purpose of operating, maintaining and retiring the debt for such public wastewater treatment works. (Code 1968, 14-472)

15-342. GENERATION OF ADEQUATE REVENUES. The user charge system shall generate adequate annual revenues to pay costs of annual operation and maintenance including replacement and costs associated with debt retirement of bonded capital associated with financing the treatment works which the city may by ordinance designate to be paid for by the user charge system. That portion of the total user charge which is designated for operation and maintenance including replacement of the treatment works shall be established by this division.
(Code 1968, 14-473)

15-343. APPLICATION OF CHARGES. The user charge rates established in this division apply to all users, regardless of their location, of the city's treatment works.
(Code 1968, 14-474)

15-344. CLASSES OF USERS AND RATES. The following classes of users and charges to those users are hereby established:

(a) Class I: Users which contribute 3,000 gallons per month or less; \$8.44 per month plus \$.00013 per gallon for operation and maintenance, including replacement and debt service.

(b) Class II: Users which contribute between 3,001 gallons per month and 4,000 gallons, inclusive, per month; \$8.44 per month plus \$.00113 per gallon for operation and maintenance, including replacement and debt service.

(c) Class III: Users which contribute between 4,001 gallons per month and 8,000 gallons, inclusive, per month; \$8.44 per month plus \$.00188 per gallon for operation and maintenance, including replacement and debt service.

(d) Class IV: Users which contribute between 8,001 gallons per month and 20,000 gallons, inclusive, per month; \$8.44 per month plus \$.00200 per gallon for operation and maintenance, including replacement and debt service.

(e) Class V: Users which contribute between 20,001 gallons per month and 30,000 gallons, inclusive, per month; \$8.44 per month plus \$.00188 per gallon for operation and maintenance, including replacement and debt service.

(f) Class VI: Users which contribute between 30,001 gallons per month and 49,000 gallons, inclusive, per month; \$8.44 per month plus \$.00156 per gallon for operation and maintenance, including replacement and debt service.

(g) Class VII: Users which contribute between 49,001 gallons per month and 99,000 gallons, inclusive, per month; \$8.44 per month plus \$.00113 per gallon for operation and maintenance, including replacement and debt service.

(h) Class VIII: Users which contribute between 99,001 gallons per month and 199,000 gallons, inclusive, per month; \$8.44 per month plus \$.00094 per gallon for operation and maintenance, including replacement and debt service.

(i) Class IX: Users which contribute between 199,001 gallons per month and 999,000 gallons, inclusive, per month; \$8.44 per month plus \$.00088 per gallon for operation and maintenance, including replacement and debt service.
(Ord. 1114, Sec. 1)

15-344a. SAME; EFFECTIVE JANUARY 1, 2007. Effective January 1, 2007, the following classes of users and charges to those users are hereby established:

(a) Class I: Users which contribute 3,000 gallons per month or less; \$9.70 per month plus \$.00015 per gallon for operation and maintenance, including replacement and debt service.

(b) Class II: Users which contribute between 3,001 gallons per month and 4,000 gallons, inclusive, per month; \$9.70 per month plus \$.00130 per gallon for operation and maintenance, including replacement and debt service.

(c) Class III: Users which contribute between 4,001 gallons per month and 8,000 gallons, inclusive, per month; \$9.70 per month plus \$.00216 per gallon for operation and maintenance, including replacement and debt service.

(d) Class IV: Users which contribute between 8,001 gallons per month and 20,000 gallons, inclusive, per month; \$9.70 per month plus \$.00230 per gallon for operation and maintenance, including replacement and debt service.

(e) Class V: Users which contribute between 20,001 gallons per month and 30,000 gallons, inclusive, per month; \$9.70 per month plus \$.00216 per gallon for operation and maintenance, including replacement and debt service.

(f) Class VI: Users which contribute between 30,001 gallons per month and 49,000 gallons, inclusive, per month; \$9.70 per month plus \$.00179 per gallon for operation and maintenance, including replacement and debt service.

(g) Class VII: Users which contribute between 49,001 gallons per month and 99,000 gallons, inclusive, per month; \$9.70 per month plus \$.00130 per gallon for operation and maintenance, including replacement and debt service.

(h) Class VIII: Users which contribute between 99,001 gallons per month and 199,000 gallons, inclusive, per month; \$9.70 per month plus \$.00108 per gallon for operation and maintenance, including replacement and debt service.

(i) Class IX: Users which contribute between 199,001 gallons per month and 999,000 gallons, inclusive, per month; \$9.70 per month plus \$.00101 per gallon for operation and maintenance, including replacement and debt service.
(Ord. 1115, Sec. 1)

15-345. NOTIFICATION OF USER OF RATE BEING CHARGED FOR OPERATION AND MAINTENANCE; METHOD OF DETERMINATION; USERS NOT CONNECTED TO CITY WATER OR USING PRIVATE WELL WATER. (a) The city will notify each user at least annually, in conjunction with a regular bill, of the rate being charged for operation, maintenance including replacement of the treatment works.

(b) The rate shall be determined by the monthly average of the amount of gallons of water used during the three month period of time from the date the meter is read in December to the date the meter is read in March of the following

year. The rate shall then be computed and adjusted on the user's April billing statement in that year and shall be effective for the period of time from April 1st of each year until March 31st of the following year.

(c) For those users who are not connected to the city water system or who also supplement their water usage with water from a private water well, the rate is hereby established in the amount of \$20.00 per month.

(Ord. 1070, Sec. 2)

15-346. TOXIC POLLUTANTS. Any user which discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge from the city's treatment works, or any user which discharges any substance which singly or by interaction with other substances causes identifiable increases in the cost of operation, maintenance, or replacement of the treatment works, shall pay for such increased costs. The charge to each such user will be as determined by the responsible plant operating personnel and approved by the city council.
(Code 1968, 14-477)

15-347. OPERATION, MAINTENANCE, REPLACEMENT, AND DEBT SERVICE FUND.

That portion of the total user charge collected which is designated for operation and maintenance including replacement purposes as established in section 15-343, shall be deposited in a separate non-lapsing fund known as the operation, maintenance, replacement and debt service fund and will be kept in two primary accounts as follows:

(a) An account designated for the specific purpose of ensuring replacement needs over the useful life of the treatment works (replacement account). Deposits in the replacement account shall be made from the operation, maintenance and replacement revenue in the amount of \$1,000 annually.

(b) An account designated for the specific purpose of retiring bond principal and interest each year.

(Code 1968, 14-479)

15-348. FISCAL YEAR-END BALANCING OF ACCOUNTS. Fiscal year-end balances in the operation and maintenance account and the replacement account shall be carried over to the same accounts in the subsequent fiscal year, and shall be used for no other purposes than those designated for these accounts. Monies which have been transferred from other sources to meet temporary shortages in the operation, maintenance and replacement fund shall be returned to their respective accounts upon appropriate adjustment of the user charge rates for operation, maintenance and replacement. The user charge rate(s) shall be adjusted such that the transferred monies will be returned to their respective accounts within the fiscal year following the fiscal year in which the monies were borrowed.
(Code 1968, 14-480)

15-349. REVIEW. The city will review the user charge system at least every two years and revise user charge rates as necessary to ensure that the system generates adequate revenues to pay the costs of operation and maintenance including replacement and that the system continues to provide for the proportional

distribution of operation and maintenance including replacement costs among users and user classes. (Code 1968, 14-481)

ARTICLE 4. SOLID WASTE

- 15-401. SYSTEM ESTABLISHED. There is hereby established a system for the collection and disposal of refuse as a function of the city. It shall be unlawful for any person to accumulate any refuse on their own premises, or on public or private property adjacent thereto, or to dispose of or remove refuse from their premises where accumulated except as provided by this article or other ordinances of the city relating thereto. (Code 1968, 8-501)
- 15-402. DEFINITIONS. Refuse for the purposes of this article, shall include garbage and trash, and garbage and trash shall be defined as follows:
Garbage and trash shall consist of waste normally produced by a household or commercial enterprise, but shall not consist of or include any barrels, furniture, bedding, appliances and similar objects; rock, concrete, glass crockery and other mineral refuse; dirt, earth and waste from building operations, wash rack residue and solid waste resulting from industrial processes and manufacturing operations, such as food processing waste, oil or house cinders, lumber scraps and shavings, fireplace ashes or ashes consisting of residue from fire used for cooking or for heating materials or other objects lawfully burned on the premises.
(Ord. 1087, Sec. 1)
- 15-403. ACCUMULATION OF GARBAGE AND TRASH. (a) It shall be the duty of the owner or occupant of each property and premises in the city to dispose of garbage and trash, as defined in this article, by placing the same in suitable containers on the premises where the same is accumulated, the same to be placed in designated places most easily accessible for the collection and removal.
(b) Each such container shall be a trash dumpster or polycart of the type approved by the city. All such containers shall be covered at all times except for when disposing or removing garbage therefrom, and shall be kept by the owner or user in a clean and sanitary condition. The city clerk shall maintain a list of those dumpster and polycart types that have been approved for use in the city.
(c) All entities determined by the city superintendent to be large volume generating sanitation customers shall utilize dumpsters for the disposal of their trash and garbage. The following businesses and entities are declared to be a nonexclusive list of large volume generating sanitation customers to whom the provisions of this section shall apply without any specific determination by the city superintendent: Hardware and parts stores, restaurants, rest homes, convenience stores, grocery stores and supermarkets, private clubs, body shops, bowling alleys, manufacturers, lumber yards, liquor stores, banks, schools, service stations, and multiple housing units or trailer parks billed through the owner or operator.
(d) All commercial enterprises introducing volumes of cardboard into the city solid waste disposal system shall break down and bundle such cardboard into bundles with exterior dimensions not to exceed three feet per side. Failure to comply with this requirement will result in the cardboard being ineligible for pickup.
(Ord. 1156, Sec. 2:3; Ord. 1292 Sec. 2; Code 2009)
- 15-404. COMMERCIAL ENTERPRISES; CARDBOARD. All commercial enterprises introducing volumes of cardboard into the city solid waste disposal system shall

break down and bundle such cardboard into bundles with exterior dimensions not to exceed three inches per side. Failure to comply with this requirement will result in the cardboard being ineligible for pick-up. (Ord. 1131, Sec. 3)

- 15-405. TREE LIMBS AND BRUSH. Tree limbs and brush of a small diameter may be placed in approved containers provided that it is cut in such lengths that it may be placed therein and a lid placed on the container. All other tree limbs or brush shall be bound together by the use of some material and shall be in lengths of no greater than four feet. Tree limbs and brush bound in such manner shall be considered as items subject to a special pick-up charge as hereinbefore provided. (Ord. 1087, Sec. 6)
- 15-406. OTHER ACCUMULATIONS. All objects or substances not defined as trash shall not be placed in any garbage or trash container but may be accumulated in a suitable place on the premises for removal in accordance with the provisions of section 15-412. (Code 1968, 8-505)
- 15-407. RULES AND REGULATIONS. Suitable and proper rules for the purpose of the accumulation and removal of garbage and trash may be adopted by the collector subject to the approval of the council. The rules may require that all liquids be drained from any garbage and the liquids disposed of through the sanitary sewer system; the wrapping of garbage in paper and its separation from trash; the location of all garbage and trash containers with respect to the street and alley for collection; the time of collection, and the type of containers to be used. (Code 1968, 8-506)
- 15-408. BURNING TRASH. It shall be unlawful for any person to burn, or cause to be burned outdoors and within the city limits of the city, any trash, leaves, paper or other refuse or combustible material of any kind whatsoever, except for the operation of an outdoor fireplace or apparatus used for cooking purposes while a responsible adult is personally present and in charge of such activity; provided however, that nothing herein contained shall prevent burning of materials under the supervision of the Ellis Fire Department or any governmental unit. (Code 1968, 8-507)
- 15-409. COLLECTION OF REFUSE. The city shall in accordance with the provisions of this article collect and remove from the city all refuse which may be accumulated therein. No person other than such persons as may be employed by the city or who shall have an exclusive contract with the city for the purpose of collecting and removing refuse, shall collect or remove refuse from the city. (Code 1968, 8-508)
- 15-410. CONTRACT BY CITY. When any contract shall be entered into by the city for the collection and removal of refuse therefrom, the same shall be negotiated on such terms as shall be mutually agreeable to the contractor and the city and shall be in writing and the contract shall be approved by the council, and the mayor and clerk shall be authorized to execute the same on behalf of the city. Any such contract shall not extend beyond the term of one year and shall contain the provisions for the termination thereof upon 60 days' notice by either party. Any

such contractor may be required to supply and use such vehicles so built, constructed, and operated as to prevent the spilling or loss of its contents along or upon any alley, street, public or private grounds in the city; to establish routes and time schedules and keep collection records for each premise from which refuse will be removed; to keep an office and telephone where complaints may be made regarding the collection service; and to make monthly reports to the council respecting the services performed. Any such contractor shall execute a surety bond to the city, to be approved by the council in the sum of \$2,000, conditioned upon satisfactory performance of all the terms of the contract and to save the city harmless from any loss or damage on account of the contractor's conduct. (Code 1968, 8-509)

15-411. COLLECTION PERIOD. Trash shall be collected at least once each week in the business district and at least twice a month in the residential district; provided, that any contract entered into as herein provided may specify the frequency of garbage and trash collection in any district. (Code 1968, 8-510; Code 1990)

15-412. SERVICE CHARGES. (a) The council shall fix a schedule of charges to be paid the city by the owner or occupant of any premises for the removal of refuse therefrom. Such charges shall be imposed in accordance with a reasonable classification of the services required, the frequency of collection and the amount of garbage and trash to be removed; provided, that any person having a contract with the city hereunder may with the approval of the council, establish special service charges and rules and regulations for the removal of accumulations of any substances or materials not defined as trash by section 15-502(b) or removal as trash.

(b) All residences or locations within the limits of the city which do not utilize a dumpster and all residences or locations outside the limits of the city which receive refuse removal service from the City but do not utilize a dumpster shall be required to use a trash polycart provided by the City. The fee for providing weekly pick-up sanitation service to residences or locations which do not utilize a dumpster, and where the weekly pick-up consist of the picking up of trash and garbage normally produced by a household or commercial enterprise as defined above, shall be as follows:

(1) For single person residences located within the city limits, \$19.00 per month.

(2) For residences of more than one person and/or commercial enterprises located within the city limits, \$21.00 per month.

(3) For residential collection located outside of the city limits, \$24.00 per month.

(4) For commercial enterprises located outside the city limits, \$24.00 per month.

(5) Additional cart rental for a second or subsequent trash cart located at any of the above locations, \$6.00 per month.

(6) Grass cart rental during the months of April through September shall be \$1.00 per month.

Two or more individuals or businesses located at different addresses share a dumpster, each such business or individual shall pay the applicable rates as set

forth below. The fee for the pick-up of garbage and trash from dumpsters utilized by residences and single business entities shall be as follows:

(1) For dumpsters located within the city limits, \$37.00 per month for once a week pick-up.

(2) For dumpsters located outside of the city limits, \$39.00 per month for once a week pick-up.

(3) Additional pick-up days for dumpsters may be scheduled, at the cost of \$37.00 per additional weekly pick-up for dumpsters located within the city limits and \$39.00 for dumpsters located outside of the city limits.

(c) Charges for Special Pick-Up. If the city is requested to pick-up and dispose of items which are not within the definition of garbage and trash as herein defined, the superintendent of the city or a person designated by the superintendent shall determine whether such item or items will be picked-up or disposed of. If such item is picked-up, the following charges and fees shall apply:

(1) A minimum charge of \$10.00 will be made. If the total weight of the item or material picked-up exceeds 200 pounds, the charge shall be \$10.00 plus \$0.05 per pound in excess of 200 pounds.

(2) For appliances which are tagged and certified as being Freon free, the charge shall be \$10.00 plus \$0.05 per pound in excess of 200 pounds plus \$10.00.

(3) Appliances which are not tagged and certified as being Freon free, a charge of \$10.00 plus \$0.05 per pound in excess of 200 pounds plus \$25.00.

(4) Car tires, a charge of \$2.50 each; car tires with rim, a charge of \$5.00 each; truck tires, a charge of \$7.50 each; truck tires with rim, a charge of \$15.00 each and tractor/implement tires, a charge of \$25.00 each and tractor/implement tires with rim, a charge of \$50.00 each.

(d) Application. All residences and commercial enterprises located within the limits of the city which subscribe to any city service shall be required to accept and pay for sanitation pick-up as provided by the city and pursuant to the rate schedule as herein set forth and as may be changed from time to time.

(Code 1968, 8-511; Ord. 1087, Secs. 3:5; Ord. 1131; Ord. 1133; Ord. 1156, Sec. 1; Ord. 1194, Sec. 1; Ord. 1225, Sec. 1; Ord. 1291 Code 2009)

15-413. **COLLECTION OF CHARGES.** All charges imposed hereunder shall be due and payable to the city monthly within 15 days after the first day of the month succeeding the one in which the charges were incurred. The city clerk shall prepare and render a bill for refuse removal services in the same manner as for utility bills and shall by virtue of his or her office be the collector of such accounts. He or she shall deliver all moneys received hereunder into the city treasury to the credit of the sanitation fund. (Ord. 1102, Sec. 1)

15-414. **ADVANCE FEE DEPOSIT.** The city clerk shall, at the time of collecting the first monthly service fee, imposed for the collection and removal of refuse from the city, collect a fee or fees in addition, equivalent to such monthly charge. The same shall be retained by the clerk as an advance guaranty of the succeeding monthly charge for refuse removal services. Thereafter, when any monthly charges shall be unpaid at the end of the month, the advance fee shall be credited to such account, and the clerk shall cause the refuse collection service of the city to be discontinued as to such premises until the unpaid fees are received by him or her,

together with the fee or fees for the next succeeding month. (Code 1968, 8-513; Code 1990)

15-415. REFUSE COLLECTION; UNLAWFUL ACTS. Hereafter it shall be unlawful for any person in the city to collect or haul garbage or trash, as defined herein, for hire, service, or consideration of any kind unless any such person shall do so under a contract with the city. (Code 1968, 8-514)

15-416. USE AND MANAGEMENT OF DUMP GROUNDS. (a) The governing body, shall, from time to time, designate an area or areas within or without the limits of the city to be the dump grounds of the city. The governing body shall further provide for the management of the same, and for the hours of operation.

(b) Such city dump grounds shall be closed for the use of the general public on weekends and holidays. The dump grounds shall be open Monday through Friday from the hours of 8:00 a.m. to 5:00 p.m.

(c) Rules and regulations concerning the dump grounds shall be established by resolution of the governing body. (Code 1968, 8-515; Code 1990)

15-417. ENFORCEMENT PROVISION. A subscriber to waste service who is found to be in violation of any of the rules or regulations contained herein shall be given the appropriate notice, which will be delivered to the residence or address of the commercial enterprise. A record of such violations will be maintained by the city. After a subscriber has received four such notices, the city may, at the subscriber's expense, take whatever action is necessary to correct the violation. Any cost associated with the correction will be assessed against a subscriber and will be added to the subscriber's next monthly bill. (Ord. 1976, Sec, 7)

15-418. NONRESIDENT USE OF MUNICIPAL UTILITIES. (a) For any nonresident of the city to be eligible for the voluntary extension of the city's municipal utility services to a location outside of the city limits, such nonresident shall also be required to subscribe to the solid waste disposal service maintained by the city.

(b) Any nonresident of the city who receives solid waste disposal service must comply with the requirements of this article and all other applicable ordinances of the city as they relate to the establishment and collection of charges, deposits, accumulation of garbage, trash, and other accumulations, collection, and any and all rules and regulations adopted regarding waste pick up. Any person failing to comply with these provisions shall be denied any and all utility services furnished by the city. (Ord. 1106, Sec. 1:2)

15-419. UNLAWFUL DISPOSAL. It shall be unlawful for a person, firm or corporation to:

(a) Dispose of refuse in any container other than that owned or leased by him or under his control without written consent of such owner and with the intent of avoiding payment of the City's refuse service charge.

(b) Deposit of refuse at any place or in any manner other than described herein.

(c) Bury any garbage or refuse on any private or public premises.

Any person, firm, or corporation violating any of the provisions of this article shall upon conviction, be punished by a fine of not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00), and each day of failure to comply with such provision of this article shall constitute a separate offense. (Ord. 1282; Code 2009)

ARTICLE 5. WATER CONSERVATION

- 15-501. **PURPOSE.** The purpose of this article is to provide for a progressive water supply conservation program, including the declaration of a water supply watch, warning or emergency and the implementation of voluntary and mandatory water conservation measures throughout the city in the event such a watch, warning or emergency is declared by the governing body of the City. (Ord. 1280; Code 2009)
- 15-502. **DEFINITIONS.** (a) Water - Shall mean 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.
- (b) Customer - Shall mean the customer of record using water for any purpose from the city's water distribution system and for which either a regular charge is made or, in the case of coin sales, a cash charge is made at the site of delivery. For purposes of this section, "water user," "customer," and "water service account" shall be synonymous.
- (c) For the purposes of this section, "residential water user," in addition to meaning private residential water user, also means and includes residents of apartments, duplexes, and other like municipal resident facilities, but shall not include hospitals, nursing homes or other similar uses.
- (d) Waste of Water - Includes, but is not limited to (1) permitting water to escape down a gutter, ditch, or other surface drain, or (2) failure to repair a controllable leak of water due to defective plumbing.
- (e) Outdoor Watering - shall mean the irrigation with water of lawns, shrubs, flowers, trees, gardens and other outdoor vegetation for personal, private, commercial, or governmental purposes; the filling or adding of water to public or private swimming pools; the washing down with water of buildings, machinery, vehicles and appliances for personal or private purposes, and other similar practices and acts. Upon application, a special permit shall be issued to allow watering for newly seeded, Buffalo or Bermuda grass lawns between the hours of 12:00 noon and 7:00 p.m., effective June 1 through September 30.
- (f) The following classes of uses of water are established:
- Class 1: Water used for outdoor watering, either public or private, for gardens, lawns, trees, shrubs, plants, parks, golf courses, playing fields, swimming pools or other recreational areas; or the washing of motor vehicles, boats, trailers, or the exterior of any building or structure.
- Class 2: Water used for any commercial or industrial, including agricultural, purposes; except water actually necessary to maintain the health and personal hygiene of bona fide employees while such employees are engaged in the performance of their duties at their place of employment.
- Class 3: Domestic usage, other than that which would be included in either classes 1 or 2.
- Class 4: Water necessary only to sustain human life and the lives of domestic pets and maintain standards of hygiene and sanitation. (Ord. 1280; Code 2009)
- 15-503. **EMERGENCY DECLARATION.** In the event that the governing body of the

City or the City's designated official determines that the City's water supply may be in subject to a shortage in supply or the governing body of the City determines there is need for conservation of City's water resources for any reason, the City may begin the progressive three (3) stage water conservation program by declaring a water watch as described in section 3(a) or, in times of need and / or duress, the governing body of the City may choose to declare any section of the program described in section 3 in effect at any time:

(a) Stage 1: Declaration of Water Watch. Whenever the governing body of the City finds that conditions indicate that the probability of a drought or some other condition causing a major water supply shortage is rising, it shall be empowered to declare, by resolution, that a water watch exists and that it shall take steps to inform the public and ask for voluntary reductions in water use. Such a watch shall be deemed to continue until it is declared by resolution of the governing body to have ended. The resolutions declaring the existence and end of a water watch shall be effective upon their publication in the official city newspaper.

(b) Stage 2: Declaration of Water Warning. Whenever the governing body of the City finds that drought conditions or some other condition causing a major water supply shortage are present and supplies are starting to decline, it shall be empowered to declare by resolution that a water warning exists and that it will recommend restrictions on nonessential uses during the period of warning. Such a warning shall be deemed to continue until it is declared by resolution of the governing body to have ended. The resolutions declaring the beginning and ending of the water warning shall be effective upon their publication in the official city newspaper. Pursuant to the approval of the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, the recommended restrictions on nonessential uses may be extended to private wells within the City limits.

(c) Stage 3: Declaration of Water Emergency. Whenever the governing body of the City finds that an emergency exists by reason of a shortage of water supply needed for essential uses, it shall be empowered to declare by resolution that a water supply emergency exists and that it will impose mandatory restrictions on water use during the period of the emergency. Such an emergency shall be deemed to continue until it is declared by resolution of the governing body to have ended. The resolutions declaring the existence and end of a water supply emergency shall be effective upon their publication in the official city newspaper. Pursuant to the approval of the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, the mandatory restrictions on water use may be extended to private wells within the City limits. (Ord. 1280; Code 2009)

15-504. VOLUNTARY CONSERVATION MEASURES. Upon the declaration of a water watch or water warning as provided in Sections 3(a) or 3(b), the mayor is authorized to call on all water consumers to employ voluntary water conservation measures to limit or eliminate nonessential water uses including, but not limited to, limitations on the following uses:

- (a) 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.

(d) Waste of water. (Ord. 1280; Code 2009)

15-505. MANDATORY CONSERVATION MEASURES. Upon the declaration of a water supply emergency as provided in Section 3(c), the mayor or authorized city official is also authorized to implement certain mandatory water conservation measures, including, but not limited to, the following conservation measures:

(a) Suspension of new connections to the City's water distribution system, except connections of fire hydrants and those made pursuant to agreements entered into by the City prior to the effective date of the declaration of the emergency;

(b) Restrictions on the uses of water in one or more classes of water use, 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 in section as the governing body of the City or authorized city official may deem appropriate and/or necessary.

(Ord. 1280; Code 2009)

15-506. EMERGENCY WATER RATES. Upon the declaration of a water supply emergency as provided above, the governing body of the City shall have the power to adopt emergency water rates by ordinance designed to conserve water supplies. Such emergency rates may provide for, but are not limited to:

(a) Higher charges for increasing usage per unit of use (increasing block rates);

(b) Uniform charges for water usage per unit of use (uniform unit rate); or

(c) Extra charges in excess of a specified level of water use (excess demand surcharge). (Ord. 1280; Code 2009)

15-507. REGULATIONS. To facilitate the purposes of this section the following regulations are imposed and control water use of the water supply of the City of Ellis, even in situations where a water watch, warning, or emergency has not been declared. It shall be and is made unlawful for any person, firm, corporation, or entity of any nature, to use water contrary to and in violation of the following regulations:

(a) The escape or loss of water through breaks or leaks within the water user's plumbing or distribution system for any substantial period of time shall be prohibited, it being presumed that a period of eight hours after the water user discovers or should have discovered such leak or break, is a substantial period of time.

(b) Outdoor watering, including, but not limited to, the irrigation of lawns, shrubs, flowers, trees, gardens and other outdoor vegetation, shall be prohibited between the hours of noon and 7:00 p.m., year round.

(c) No water user shall allow substantial amounts of water to escape or drain from private property onto public property, including, but not limited to, public sidewalks, rights-of-way, streets, alleys, and highways, provided that substantial shall mean an amount sufficient to cause a discernible flow of water reaching the street, gutter or other drainage system. For purposes of this section, it shall be conclusively presumed that the resident (s) of property from which water escapes or drains knows of such escape or draining. However, the escape of water from private property due to washing of vehicles shall not be construed as substantial, provided the user of the water has not allowed water to flow from a hose or open tap when not directly being used to wash down the vehicle.

(d) During the effective period of any water supply emergency as provided for in Section 5, 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. (Ord. 1280; Code 2009)

15-508.

VIOLATIONS, DISCONNECTIONS AND PENALTIES. (a) If the mayor, public works director, water superintendent, or other authorized city official or officials charged with implementation and enforcement of this article or a water supply emergency resolution learn of any violation of any water use restrictions imposed pursuant to this article, a written notice of the violation shall be affixed to the property where the violation occurred and the customer of record and/ or any other person known to the City to be responsible for the violation and / or the correction of said violation shall be provided with either actual or mailed notice. Said notice shall describe the violation(s) and order that the noted violation(s) be corrected, cured or abated immediately or within such specified time as the City determines is reasonable for such correction, cure or abatement under the circumstances. In the event the order is not cured within the time period given in the notice, the City may terminate water service to the customer subject to the following procedures:

(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(s) and that the customer will have the opportunity to appeal the termination by requesting a hearing scheduled before the City governing body or a city official designated as a hearing officer by the City governing body;

(2) If such a hearing is requested by the customer charged with the violation, the customer shall be given a full opportunity to be heard by the City governing body or the city official designated as a hearing officer by the City governing body before termination is ordered; and the City governing body or the city official designated as a hearing officer by the City governing body shall make findings of fact and order whether service should continue or be terminated.

(b) A fee of \$30.00 shall be paid for the reconnection of any water service terminated pursuant to subsection (a). In the event of subsequent violations, the reconnection fee shall be \$60.00 for the second reconnection and \$100 for any subsequent additional reconNECTIONS within a two year (24 months) period.

(c) Violations of this article shall be a municipal offense and may be prosecuted in Municipal Court. Any person so charged and found guilty in Municipal court of violating the provisions of this article shall be guilty of a

municipal offense. Each calendar day in which a violation is observed shall constitute a separate offense. These provisions contained herein are cumulative and for purposes of determining the number of violations committed the previous 24 months shall be considered. Any violations previous to the preceding 24 months shall not be considered as violations for the purposes of assessing penalties of this section.

(1) On first violation the offender shall be fined a maximum of \$50.00.

(2) Upon second violation the offender shall be fined a maximum of \$100.00.

(3) Upon third violation the offender shall be fined a maximum of \$150.00.

(4) Upon fourth violation the offender shall be fined a maximum of \$200.00

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 thirty (30) days. (Ord. 1280; Code 2009)

15-509. EMERGENCY TERMINATION. Nothing in this article shall limit the ability of any properly authorized city official from terminating the supply of water to any or all customers upon the determination of such city official that emergency termination of water service is required to protect the health and safety of the public or for any other emergency as required or authorized by ordinance or as deemed necessary of the City by such city official or the governing body of the City. (Ord. 1280; Code 2009)

CHAPTER XVI. ZONING AND PLANNING

- Article 1. City Planning Commission/
Board of Zoning Appeals
- Article 2. Flood Damage Prevention
(Floodway and Flood Fringe Districts)
- Article 3. Subdivision Regulations

ARTICLE 1. CITY PLANNING COMMISSION/ BOARD OF ZONING APPEALS

- 16-101. COMMISSION RE-ESTABLISHMENT. There is hereby re-established the Ellis City Planning Commission which is composed of 9 members of which seven members shall be residents of the city and two members shall reside outside the city, but within the designated planning area of the city which is within at least three miles of the corporate limits of the city. The planning commission was originally created by Ordinance No. 784 which was passed and approved May 12, 1964.
(Ord. 1182, Sec. 1; Code 2005)
- 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 April 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. (Ord. 1171, Sec. 2)
- 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 by-laws. 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 re-zoning 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. (Ord. 1171, Sec. 3)

16-104. **POWERS AND DUTIES.** The governing body and planning commission shall have all the rights, powers and duties as authorized in K.S.A. 12-741 *et seq.* and amendments thereto, which are hereby incorporated by reference as part of this article, and shall be given full force and effect as if the same had been fully set forth. The commission is hereby authorized to make or cause to be made, adopted and maintained a comprehensive plan for the city and any unincorporated territory lying outside of the city but within Ellis County in which the city is located, which in the opinion of the commission forms the total community of which the city is a part. The commission shall also cause to be prepared, adopted and maintained zoning and subdivision regulations on all land within the jurisdiction designated by the governing body. The comprehensive plan and zoning and subdivision regulations are subject to final approval of the governing body by ordinance. Periodically, the governing body may request the commission to undertake other assignments related to planning and land use regulations. (Ord. 1171, Sec. 4)

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 questions 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. The present membership of the board of zoning appeals shall be disbanded effective July 1, 2002. (Ord. 1171, Sec. 5)

16-106. **MEMBERS OF THE BOARD OF ZONING APPEALS APPOINTED TO PLANNING COMMISSION.** The members of the board of zoning appeals are hereby appointed to serve on the city planning commission until the expiration of the current political year of service. At that time, all current members of the board of zoning appeals must be re-appointed by the mayor in order to serve on the city planning commission. (Ord. 1171, Sec. 6)

16-107. BUDGET. The governing body shall approve a budget for the planning commission and make such allowances to the commissions as it deems proper, including funds for the employment of such employees or consultants as the governing body may authorize and provide, and shall add the same to the general budget. Prior to the time that moneys are available under the budget, the governing body may appropriate moneys for such purposes from the general fund. The governing body may enter into such contracts as it deems necessary and may receive and expend funds and moneys from the state or federal government or from any other resource for such purposes. (Ord. 1171, Sec. 7)

**ARTICLE 2. FLOOD DAMAGE PREVENTION
(FLOODWAY AND FLOOD FRINGE DISTRICT)**

16-201. STATUTORY AUTHORIZATION. Approval of Draft Ordinance by Kansas Chief Engineer Prior to Adoption. The following flood plain management regulations, as written, were approved in draft form by the Chief Engineer of the Division of Water Resources of the Kansas Department of Agriculture on July 8, 2005.

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

(A) Findings of Fact. Flood Losses Resulting from Periodic Inundation - The special flood hazard areas of Ellis, Kansas, are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base; all of which adversely affect the public health, safety and general welfare.

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

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

(1) Selection of a base flood that is based upon engineering calculations, which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood selected for this ordinance is representative of large floods, which are characteristic of what can be expected to occur on the particular streams subject to this ordinance. It is in the general order of a flood which could be expected to have a one percent chance of occurrence in any one year as delineated on the Federal Insurance Administrator's FIS, and illustrative materials dated August 1, 1983 as amended, and any future revisions thereto.

(2) Calculation of water surface profiles that are based on a standard hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood.

(3) Computation of a floodway required to convey this flood without increasing flood heights more than one (1) foot at any point.

(4) Delineation of floodway encroachment lines within which no development is permitted that would cause any increase in flood height.

(5) Delineation of floodway fringe, i.e., that area outside the floodway encroachment lines, but still subject to inundation by the base flood.

(Ord. 1236, Secs. A, B; Code 2006)

16-202. STATEMENT OF PURPOSE. It is the purpose of this ordinance to promote the public health, safety, and general welfare; to minimize those losses described

in Article 1, Section B(1); to establish or maintain the community's eligibility for participation in the National Flood Insurance Program (NFIP) as defined in 44 Code of Federal Regulations (CFR) 59.22(a)(3); and to meet the requirements of 44 CFR 60.3(d) and K.A.R. 5-44-4 by applying the provisions of this ordinance to:

- (1) Restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities;
- (2) Require uses vulnerable to floods, including public facilities that serve such uses, be provided with flood protection at the time of initial construction; and
- (3) Protect individuals from buying lands that are unsuited for the intended development purposes due to the flood hazard. (Ord. 1236, Sec. C; Code 2006)

16-203.

GENERAL PROVISIONS. (a) LANDS TO WHICH ORDINANCE APPLIES.

This ordinance shall apply to all lands within the jurisdiction of Ellis, Kansas identified as numbered and unnumbered A Zones, AE, AO, and AH Zones, on the Index Map dated August 1, 1983 of the Flood Insurance Rate Map (FIRM) and the Index Map dated August 1, 1983 of the Flood Boundary and Floodway Map (FBFM) as amended, and any future revisions thereto. In all areas covered by this ordinance, no development shall be permitted except through the issuance of a floodplain development permit, granted by the City Council or its duly designated representative under such safeguards and restrictions as the City Council or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community, and as specifically noted in Article 4.

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

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

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

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

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

(Ord. 1236, Art. 2; Code 2006)

16-204.

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

(b) DESIGNATION OF FLOODPLAIN ADMINISTRATOR. The building inspector/director of public works is hereby appointed to administer and implement the provisions of this ordinance.

(c) DUTIES AND RESPONSIBILITIES OF FLOODPLAIN ADMINISTRATOR. Duties of the Floodplain Administrator shall include, but not be limited to:

(1) Review of all applications for floodplain development permits to assure that sites are reasonably safe from flooding and that the floodplain development permit requirements of this ordinance have been satisfied;

(2) Review of all applications for floodplain development permits for proposed development to assure that all necessary permits have been obtained from Federal, State, or local governmental agencies from which prior approval is required by Federal, State, or local law;

(3) Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding;

(4) Issue floodplain development permits for all approved applications;

(5) Notify adjacent communities and the Division of Water Resources, Kansas Department of Agriculture, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);

(6) Assure that the flood-carrying capacity is not diminished and shall be maintained within the altered or relocated portion of any watercourse; and

(7) Verify and maintain a record of the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures;

(8) Verify and maintain a record of the actual elevation (in relation to mean sea level) that the new or substantially improved non-residential structures have been flood proofed;

(9) When flood proofing techniques are utilized for a particular non-residential structure, the floodplain administrator shall require certification from a registered professional engineer or architect.

(d) APPLICATION FOR FLOODPLAIN DEVELOPMENT PERMIT. To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every floodplain development permit application shall:

(1) Describe the land on which the proposed work is to be done by lot, block and tract, house and street address, or similar description that will readily identify and specifically locate the proposed structure or work;

- (2) Identify and describe the work to be covered by the floodplain development permit;
- (3) Indicate the use or occupancy for which the proposed work is intended;
- (4) Indicate the assessed value of the structure and the fair market value of the improvement;
- (5) Specify whether development is located in designated flood fringe or flood way;
- (6) Identify the existing base flood elevation and the elevation of the proposed development;
- (7) Give such other information as reasonably may be required by the floodplain administrator;
- (8) Be accompanied by plans and specifications for proposed construction; and
- (9) Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority. (Ord. 1236, Art. 3; Code 2006)

16-205. PROVISIONS FOR FLOOD HAZARD REDUCTION. (A) GENERAL STANDARDS.

(1) No permit for floodplain development shall be granted for new construction, substantial-improvements, and other improvements, including the placement of manufactured homes, within any numbered or unnumbered A zones, AE, AO, and AH zones, unless the conditions of this section are satisfied.

(2) All areas identified as unnumbered A zones on the FIRM are subject to inundation of the 100-year flood; however, the base flood elevation is not provided. Development within unnumbered A zones is subject to all provisions of this ordinance. If Flood Insurance Study data is not available, the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from Federal, State, or other sources.

(3) Until a floodway is designated, no new construction, substantial improvements, or other development, including fill, shall be permitted within any unnumbered or numbered A zones, or AE zones on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(4) All new construction, subdivision proposals, substantial-improvements, prefabricated structures, placement of manufactured homes, and other developments shall require:

(a) Design or adequate anchorage to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(b) Construction with materials resistant to flood damage;

(c) Utilization of methods and practices that minimize flood damages;

(d) All electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(e) New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the

systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination; and

(f) Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, located within special flood hazard areas are required to assure that:

(i) All such proposals are consistent with the need to minimize flood damage;

(ii) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;

(iii) Adequate drainage is provided so as to reduce exposure to flood hazards; and

(iv) All proposals for development, including proposals for manufactured home parks and subdivisions, of five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals base flood elevation data.

(5) Storage, Material, and Equipment. (a) The storage or processing of materials within the special flood hazard area that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited.

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

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

(a) If such structure, use, or utility service is discontinued for six (6) consecutive months, any future use of the building shall conform to this ordinance.

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

(7) Agricultural Structures. Structures used solely for agricultural purposes in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock, may be constructed at-grade and wet-floodproofed provided there is no human habitation or occupancy of the structure; the structure is of single-wall design; there is no permanent retail, whole-sale, or manufacturing use included in the structure; a variance has been granted from the floodplain management requirements of this ordinance; and a floodplain development permit has been issued.

(B) SPECIFIC STANDARDS.

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

(a) Residential Construction. New construction or substantial-improvement of any residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated a minimum of one (1) foot above base flood elevation. The elevation of the lowest floor shall be certified by a licensed land surveyor.

(b) Non-Residential Construction. New construction or substantial-improvement of any commercial, industrial, or other non-residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, be flood proofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. The elevation of the lowest floor shall be certified by a licensed land surveyor. Such certification shall be provided to the floodplain administrator as set forth in Article 3, Section C (7)(8)(9).

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

(i) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided; and

(ii) The bottom of all opening shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

(C) MANUFACTURED HOMES.

(1) All manufactured homes to be placed within all unnumbered and numbered A zones, AE, and AH zones, on the community's FIRM shall be required to be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

(2) Require manufactured homes that are placed or substantially improved within unnumbered or numbered A zones, AE, and AH zones, on the community's FIRM on sites:

(a) Outside of a manufactured home park or subdivision;

(b) In a new manufactured home park or subdivision;

(c) In an expansion to and existing manufactured home park or subdivision;
or

(d) In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial-damage as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated a minimum of one (1) foot above the base flood elevation and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. The elevation of the lowest floor shall be certified by a licensed land surveyor.

(3) Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within all unnumbered and numbered A zones, AE and AH zones, on the community's FIRM, that are not subject to the provisions of Article 4, Section C (2) of this ordinance, be elevated so that either:

(a) The lowest floor of the manufactured home is a minimum of one (1) foot above the base flood level; or

(b) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. The elevation of the lowest floor shall be certified by a licensed land surveyor.

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

(1) AO Zones.

(a) All new construction and substantial-improvements of residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two (2) feet if no depth number is specified).

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

(c) Adequate drainage paths shall be required around structures on slopes, in order to guide floodwaters around and away from proposed structures.

(2) AH Zones.

(a) The specific standards for all areas of special flood hazard where base flood elevation has been provided shall be required as set forth in Article 4, Section B.

(b) Adequate drainage paths shall be required around structures on slopes, in order to guide floodwaters around and away from proposed structures.

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

(1) The community shall select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood without increasing the water surface elevation of that flood more than one (1) foot at any point.

(2) The community shall prohibit any encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

(3) If Article 4, Section E (2), is satisfied, all new construction and substantial-improvements shall comply with all applicable flood hazard reduction provisions of Article 4.

(4) In unnumbered A zones, the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from Federal, State, or other sources as set forth in Article 4, Section A (2).

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

(1) Be on the site for fewer than 180 consecutive days, or

(2) Be fully licensed and ready for highway use*; or

(3) Meet the permitting, elevation, and anchoring requirements for manufactured homes of this ordinance.

*A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions. (Ord. 1236, Art. 4; Code 2006)

16-206.

FLOODPLAIN MANAGEMENT VARIANCE PROCEDURES.

(A) ESTABLISHMENT OF APPEAL BOARD. The Board of Zoning Appeals, Appeal Board, as established by The City of Ellis, Kansas shall hear and decide appeals and requests for variances from the floodplain management requirements of this ordinance.

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

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

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

(D) SECTION D. FLOODPLAIN MANAGEMENT VARIANCE CRITERIA. In passing upon such applications for variances, the Appeal Board shall consider all technical data and evaluations, all relevant factors, standards specified in other sections of this ordinance, and the following criteria:

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

(E) CONDITIONS FOR APPROVING FLOODPLAIN MANAGEMENT VARIANCES.

(1) Generally, variances may be issued for new construction and substantial-improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items two (2) through six (6) below have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

(2) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination, provide the proposed activity will not preclude the structure's continued historic designation.

(3) Variances shall not be issued within any designated floodway if any significant increase in flood discharge would result.

(4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(5) Variances shall only be issued upon: (a) showing of good and sufficient cause, (b) determination that failure to grant the variance would result in exceptional hardship to the applicant, and (c) determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(6) A community shall notify the applicant in writing over the signature of a community official that: (a) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (b) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.

(F) **CONDITIONS FOR APPROVING VARIANCES FOR AGRICULTURAL STRUCTURES.** Any variance granted for an agricultural structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in Article 5, Sections D and E of this ordinance.

In order to minimize flood damages during the 100-year flood and the threat to public health and safety, the following conditions shall be included for any variance issued for agricultural structures that are constructed at-grade and wet-flood proofed:

(1) All agricultural structures considered for a variance from the floodplain management regulations of this ordinance shall demonstrate that the varied structure is located in wide, expansive floodplain areas and no other alternate location outside of the special flood hazard area exists for the agricultural structure. Residential structures, such as farmhouses, cannot be considered agricultural structures.

(2) Use of the varied structures must be limited to agricultural purposes in Zone A only as identified on the community's Flood Insurance Rate Map (FIRM).

(3) For any new or substantially damaged agricultural structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with Article 4, Section A (4)(b) of this ordinance.

(4) The agricultural structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structures in accordance with Article 4, Section A (4)(a) of this ordinance. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.

(5) Any mechanical, electrical, or other utility equipment must be located above the base flood elevation or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with Article 4, Section A (4)(d) of this ordinance.

(6) The agricultural structures must meet all National Flood Insurance Program (NFIP) opening requirements. The NFIP requires that enclosure or foundation walls, subject to the one percent annual chance flood event, also referred to as the 100-year flood, contain openings that will permit the automatic entry and exit of flood waters in accordance with Article 4, Section B (1)(c) of this ordinance.

(7) The agricultural structures must comply with the flood-plain management floodway encroachment provisions of Article 4, Section E (2) of this ordinance. No variances may be issued for agricultural structures within any

designated floodway, if any increase in flood levels would result during the one percent annual chance flood event, also referred to as the 100-year flood.

(8) Major equipment, machinery, or other contents must be protected from any flood damage.

(9) No disaster relief assistance under any program administered by any Federal agency shall be paid for any repair or restoration costs of the agricultural structures.

(10) A community shall notify the applicant in writing over the signature of a community official that: (1) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.

(11) Wet-flood proofing construction techniques must be reviewed and approved by the community and a registered professional engineer or architect prior to the issuance of any floodplain development permit for construction.

(Ord. 1236, Art. 5; Code 2006)

16-207. PENALTIES FOR VIOLATION. Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with granting of variances) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500.00, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues, shall be considered a separate offense. Nothing herein contained shall prevent the City of Ellis, Kansas or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.
(Ord. 1236, Art. 6; Code 2006)

16-208. AMENDMENTS. The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties of interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in Ellis, Kansas. At least twenty (20) days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the FEMA Region VII office. The regulations of this ordinance are in compliance with the NFIP regulations.
(Ord. 1236, Art. 7; Code 2006)

16-209. DEFINITIONS. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the same meaning they have in common usage and to give this ordinance its most reasonable application.

(a) "100-year Flood" - see "base flood."
(b) "Accessory Structure" - means the same as "appurtenant structure."

- (c) "Actuarial Rates" - see "risk premium rates."
- (d) "Administrator" - means the Federal Insurance Administrator.
- (e) "Agency" - means the Federal Emergency Management Agency (FEMA).
- (f) "Agricultural Commodities" - means agricultural products and livestock.
- (g) "Agricultural Structure" - means any structure used exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities.
- (h) "Appeal" - means a request for review of the Floodplain Administrator's interpretation of any provision of this ordinance or a request for a variance.
- (i) "Appurtenant Structure" - means a structure that is on the same parcel of property as the principle structure to be insured and the use of which is incidental to the use of the principal structure.
- (j) "Area of Shallow Flooding" - means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
- (k) "Area of Special Flood Hazard" - is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.
- (l) "Base Flood" - means the flood having a one percent chance of being equaled or exceeded in any given year.
- (m) "Basement" - means any area of the structure having its floor subgrade (below ground level) on all sides.
- (n) "Building" - see "structure."
- (o) "Chief Engineer" - means the chief engineer of the division of water resources, Kansas Department of Agriculture.
- (p) "Chief Executive Officer" or "Chief Elected Official" - means the official of the community who is charged with the authority to implement and administer laws, ordinances, and regulations for that community.
- (q) "Community" - means any State or area or political subdivision thereof, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.
- (r) "Development" - means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, levees, levee systems, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.
- (s) "Elevated Building" - means for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.
- (t) "Eligible Community" or "Participating Community" - means a community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).
- (u) "Existing Construction" - means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

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

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

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

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

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

(aa) "Flood Elevation Study" - means an examination, evaluation and determination of flood hazards.

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

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

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

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

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

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

(hh) "Floodplain Management" - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but

not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

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

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

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

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

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

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

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

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

(qq) "Lowest Floor" - means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is

not built so as to render the structure in violation of the applicable floodproofing design requirements of this ordinance.

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

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

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

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

(vv) "Mean Sea Level" - means, for purposes of the National Flood Insurance Program (NFIP), the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are referenced.

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

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

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

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

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

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

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

(ddd) "Reasonably Safe From Flooding" means base flood waters will not inundate the land or damage structures to be removed from the SFHA and that

any subsurface waters related to the base flood will not damage existing or proposed buildings.

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

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

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

(hhh) "Special Flood Hazard Area" - see "area of special flood hazard."

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

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

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

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

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

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

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

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

(qqq) "Water Surface Elevation" - means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplain. (Ord. 1236, Art. 8; Code 2006)

ARTICLE 3. SUBDIVISION REGULATIONS

16-301. SUBDIVISION REGULATIONS; ADOPTED. (a) The subdivision regulations for the City of Ellis, Kansas, as recommended by the Planning Commission, meeting the conditions for adoption prescribed in K.S.A. 12-749 are hereby adopted.

(b) The subdivision regulations shall constitute the basis for determination of land developmental procedures within the Zoning Jurisdiction of the City of Ellis, Kansas. (Ord. 1221; Code 2006)

APPENDIX A - CHARTER ORDINANCES

NOTE: The charter ordinances included herein are for information only. Each of them contains the substance as adopted by the governing body but enacting clauses, publication clauses and signatures have been omitted to conserve space. Complete copies of each charter ordinance as adopted are on file in the office of the city clerk and with the Kansas secretary of state. Date of passage by the governing body of each charter ordinance is shown in parentheses at the end of the text.

CHARTER ORDINANCE NO. 1

A CHARTER ORDINANCE EXEMPTING THE CITY OF ELLIS, KANSAS, FROM ARTICLE 19, SECTION 12-1901 ET SEQ. OF THE GENERAL STATUTES OF KANSAS, 1949, AND ANY AND ALL AMENDMENTS THERETO, AND REPEALING ORDINANCE NO. 671 OF THE ORDINANCES OF THE CITY OF ELLIS, KANSAS, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT RELATING TO THE OPERATION OF PUBLIC RECREATION AND PLAYGROUNDS AND CREATING A RECREATION COMMISSION AND PROVIDING FOR ITS POWERS, DUTIES, AND OBLIGATIONS NECESSARY FOR THE CONDUCT OF SUCH SYSTEM OF PUBLIC RECREATION AND PLAYGROUNDS IN SAID CITY.

Section 1. The City of Ellis, Kansas, by the power invested in it by Article 12, Section 5, of the Constitution of the State of Kansas hereby elects to make inapplicable to it and exempt itself from Article 19, Section 12-1901 et seq. of the general statutes of Kansas, 1949, and any and all amendments thereto, which apply to said city, but not uniformly to all cities, and provides substitute and additional provisions on the same subject as hereinafter provided.

Section 2. That there is hereby created and established a recreation commission to conduct and operate a system of public recreation and playgrounds in the City of Ellis, Kansas.

Section 3. The governing body of the City of Ellis, Kansas, shall appoint six electors of the city as members of a recreation commission. Those first appointed and elected shall hold their office as follows: Two for a term of one year, two for a term of two years, and two for a term of three years, and thereafter the members shall be appointed for a term of three years. Of the members so appointed, one member shall always be a member of the governing body of the City of Ellis, Kansas. All needed appointments shall be made on the first Tuesday of April of each year, the term to date from date of appointment.

Section 4. The administration and operation of the business and affairs of the recreation system is hereby delegated to the recreation commission, and the said commission is hereby vested with the powers, duties, and obligations

necessary for the establishment and conduct of a system of supervised recreation within the City of Ellis.

Section 5. The commission, shall upon appointment, elect a presiding officer and secretary, and shall upon appointment, hold meetings from time to time as in the opinion of said commission are necessary. No meeting shall be held unless at least four members are in attendance.

Section 6. The commission shall annually and not later than 20 days prior to the date for the publication of the budget for said city certify its budget to said city in the manner provided by law, whereupon tax shall be levied sufficient to raise the amount required by such budget, but in no event, more than one mill. The amount received from the tax so levied shall be set over to said commission and used by said commission for the purposes herein set out, and shall be held by the treasurer of the City of Ellis, who shall be ex officio treasurer of said commission.

Section 7. The disbursements made by said commission shall be paid by voucher and the claims paid by said commission shall be duly verified.

Section 8. On or before February 1 of each year, the commission shall file with the city clerk an itemized statement of all receipts and disbursements made during the preceding calendar year. Said report shall include a statement of all recreational activities supervised under the direction of said commission.
(05-27-65)

CHARTER ORDINANCE NO. 2

A CHARTER ORDINANCE EXEMPTING THE CITY OF ELLIS, KANSAS FROM K.S.A. 14-204 AND K.S.A. 14-205, PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS FOR THE SAME SUBJECTS, PROVIDING FOR THE ELECTIONS OF COUNCILMEN, THEIR QUALIFICATIONS, TIE VOTE, AND PROVIDING FOR THE FILLING OF VACANCIES ON THE CITY COUNCIL AND IN THE OFFICES OF MAYOR AND CONSTABLE.

Section 1. The City of Ellis, Kansas, a mayor-council city of the second class, by the power invested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects, and exempts itself from and makes inapplicable to it K.S.A. 14-204 and K.S.A. 14-205. Said statutes apply only to the mayor-council cities of the second class and applies to said city.

Section 2. (Repealed by C.O. No. 12)

Section 3. Any vacancy in the office of mayor or in the office of constable, shall be filled by appointment by the mayor, with the consent of the majority of the council, as regards the offices of constable and justice of the peace, and as regards vacancy in the office of mayor, the majority of the members of the council may appoint an individual to serve as mayor. Any of said appointments shall be

for the period from and after the vacancy date until the date of the next April city election, at which election said unexpired term shall be filled by election.
(10-26-65)

CHARTER ORDINANCE NO. 3

A CHARTER ORDINANCE EXEMPTING THE CITY OF ELLIS, KANSAS FROM THOSE PARTS OF K.S.A. 12-110B, WHICH SPECIFY THE TYPES OF OBLIGATIONS IN WHICH FIREFIGHTING EQUIPMENT FUNDS MAY BE INVESTED AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT.

Section 1. The City of Ellis, Kansas, by the power invested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to make inapplicable to it and exempt itself from those part of K.S.A. 12-110b, which specify the types of obligations in which the funds of the firefighting equipment fund may be invested, which statute supplies to said city, but not uniformly to all cities, and the city hereinafter provides substitute and additional provisions on the same subject.

Section 2. The governing body is authorized to invest any portion of such fire equipment fund which is not currently needed in any of the following:

Direct obligations of the United States Government which are guaranteed as to principal by the United States Government;

Temporary notes of the City of Ellis issued pursuant to K.S.A. 12-110b, which specify no-fund warrants of the City of Ellis.

(04-28-66)

CHARTER ORDINANCE NO. 4

A CHARTER ORDINANCE EXEMPTING THE CITY OF ELLIS, KANSAS, FROM THE 12-825D, KANSAS STATUTES ANNOTATED, RELATING TO THE USE, DISTRIBUTION AND INVESTMENT OF REVENUES DERIVED FROM THE SALE AND CONSUMPTION OF WATER, FUEL, POWER OR LIGHT FROM CITY OWNED UTILITIES AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT.

Section 1. The City of Ellis, Kansas, under authority of Article 12, Section 5 of the Constitution of the State of Kansas, hereby exempts itself from and makes inapplicable the provisions of Section 12-825d, Kansas Statutes Annotated, which apply to the said city, but the provisions of which do not apply uniformly to all cities and to provide substitute and additional provisions on the same subject as hereinafter provided.

Section 2. The revenue derived by the city from the sale and consumption of water, fuel, power or light shall not be paid out or disbursed except for the purpose

of operating, renewing or extending the plant or distribution system from which such revenue was derived, the payment of interest on outstanding bonds issued for the construction, extension or purchase thereof, and the payment of the salaries of the employees and at any time that there may be a surplus of such fund, it shall, if needed to redeem bonds, be quarterly placed in a sinking fund, which shall only be used for the purpose of redeeming bonds that may have been issued for acquiring, renewing or extending said plant or distribution system or making renewals or extensions thereto; provided that when any surplus of either the operating fund or sinking fund is not needed for any of the above stated purposes, said surpluses in whole or in part:

(a) May be transferred and merged into the city general revenue fund of any other fund or funds of such city;

(b) May be expended for the purpose of promoting industrial development within or without the corporate limits of the city including encouraging and assisting the location of new business and industry and expansion of existing development for the purpose of promoting the sale, use and consumption of water, fuel, power or light furnished from the waterworks, fuel, power or lighting plant or distribution system of the city, the economic and general welfare and prosperity of the City of Ellis; provided, that no such expenditure shall be made for purposes of industrial promotion until a finding has been made by the governing body of the city by resolution duly adopted that the purpose for which the expenditure is made is in the public interest and will promote industrial and utility development to the advantage of the city. Provided further, that when at any time moneys are realized from the lease, lease purchase or sale of any building or building facility or any other project, the cost or any portion of which was paid from a utility fund for the purpose of promoting industrial development as above provided, such moneys or any portion thereof shall be placed in the utility fund from which such expenditure was made;

(c) May be expended from the promotion of the sale of electricity and water.
(04-12-66)

CHARTER ORDINANCE NO. 5

A CHARTER ORDINANCE EXEMPTING THE CITY OF ELLIS, KANSAS FROM K.S.A. 14-567 ET SEQ. AND FROM K.S.A. 12-631 G. ET SEQ. AND ANY AND ALL AMENDMENTS THERETO, AND REPEALING ORDINANCE NO. 769 OF THE ORDINANCE OF THE CITY OF ELLIS, KANSAS AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT RELATING TO THE FIXING OF A CHARGE OR CHARGES FOR THE USE OF THE SEWAGE DISPOSAL SYSTEM OF SAID CITY AND PROVIDING FOR THE MANNER FOR THE MAKING, COLLECTING AND USE OF THE SAME.

Section 1. The City of Ellis, Kansas, by the power invested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to make inapplicable to it and exempt itself from K.S.A. 14-567 et seq. K.S.A. 12-631 et seq. and any and all amendments thereto which apply to said city, but not uniformly to all cities, and provides substitute and additional provisions on the same subject as hereinafter provided.

Section 2. That a monthly service charge for the use of services rendered by the sewage disposal system be paid to the city by all persons, firms, corporations, the United States, the State of Kansas and its political subdivisions, and any organizations within or without the city having a sewer connection or connections directly or indirectly with the sewage disposal system of the city in the amount of \$1.00.

Section 3. The revenue derived from the charges from use of the sewage disposal system shall be paid into the water and electric operating fund, and shall be used in any manner or for any purpose which constitutes a lawful expenditure or use of said water and electric operating fund.

Section 4. Charges for sewage disposal system services shall be billed on the statement rendered for the payment of water bills. In the event any person, firm, or corporation, or the United States, the State of Kansas and its political subdivisions, and any organizations within and without the city using said sewage disposal system, neglects, fails or refuses to pay the charges fixed herein or hereafter fixed by the governing body of the City of Ellis, Kansas, such person, firm, or corporation, or other user shall not be disconnected from such sewage disposal system or refused the use thereof, but such charges due thereunder may be by the city clerk certified to the county clerk of the county in which said city is located, to be placed on the tax roll for collection, subject to the same penalties, and collected in like manner as other taxes are by law collectible, and shall become a lien upon the real property so served, or the City of Ellis, Kansas may take any legal action available to collect such sewage disposal charge.

Section 5. For the purpose of this Ordinance, sewage disposal system shall include the system of sewers and sewage disposal plant of the City.
(02-28-67)

CHARTER ORDINANCE NO. 6

A CHARTER ORDINANCE EXEMPTING THE CITY OF ELLIS, KANSAS, FROM K.S.A. 12-1640, RELATING TO DEMAND DEPOSITS OF PUBLIC MONEYS AND CERTAIN DUTIES OF THE CITY TREASURER.

Section 1. Exemption from Statute. The City of Ellis, Kansas, by the power invested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby elects to make inapplicable to it and exempts itself from K.S.A. 12-1640, which applies to said city but not uniformly to all cities.
(08-08-67)

CHARTER ORDINANCE NO. 7

A CHARTER ORDINANCE EXEMPTING THE CITY OF ELLIS, KANSAS FROM SUBSECTION A, OF K.S.A. 12-1908, RELATING TO A SYSTEM OF PUBLIC

RECREATION AND PLAYGROUNDS, CERTIFICATION OF BUDGET, TAX LEVY, AND ELECTION TO REVOKE AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT.

Section 1. The City of Ellis, Kansas, under authority of Article 12, Section 5, of the Constitution of the State of Kansas, hereby exempts itself from and makes inapplicable the provisions of subsection A, of K.S.A. 12-1908, which applied to the said city, but the provisions of which do not apply uniformly to all cities, and to provide substitute and additional provisions on the same subject, as hereinafter provided.

Section 2. Except as otherwise providing in subsection B of this section, when the provisions of this act shall have been adopted by an election, the commission shall annually, and not later than 20 days prior to the date for the publishing of the budget of said city, or school district, certify its budget to said city or school district, which shall levy tax sufficient to raise the amount required by such budget, but in no event more than one mill, or the amount set out in the petition provided for in section 12-1904 of the general statutes of 1949, as amended, provided, when said petition shall have been submitted to a city and school district jointly, said budget shall be certified to the city or school district; provided further, that such levy shall not be deemed or considered a levy of such city or school district in determining the aggregate levy of said city or school district, under any or the statutes of this state. That after three years operation, the authority to levy the tax provided for in this section, may be revoked by a majority of the electors voting at an election called in the same manner as the election authorizing same. Upon such revocation all property and money belonging to such commission shall become the property of the city or school district levying the tax under this section. In the event a petition signed by at least five percent of the qualified and registered voters of the city or school district shall hereafter be filed with the clerk of either the city or school district, directed to the governing bodies of said city and school district jointly, requesting such bodies to jointly provide, establish, maintain, and conduct a supervised recreation system and to levy an annual tax therefore, not to exceed one mill, all as provided for in this act, and if such proposition be adopted by a majority of those voting on it at the election, then the recreation system as carried out theretofore by the city or school district independently of each other, shall be considered revoked and all property and money belonging to such former commission shall become the property of the commission of the city and the school district acting jointly. In the event that such proposition be not adopted by majority of those voting on it at the election, then the recreation system and commission in existence prior to the election shall remain in full force and effect, the same as though said election had not been had.

(01-09-68)

CHARTER ORDINANCE NO. 8

A CHARTER ORDINANCE EXEMPTING THE CITY OF ELLIS, KANSAS FROM K.S.A. 79-1952, AND PROVIDING SUBSTITUTE AND ADDITIONAL

PROVISIONS ON THE SAME SUBJECT; AUTHORIZING AND LIMITING TAX LEVIES IN ANY ONE YEAR ON EACH DOLLAR OF ASSESSED TANGIBLE VALUATION, AND PRESCRIBING AN AGGREGATE FOR ALL CITY-WIDE TAX LEVIES.

Section 1. The City of Ellis, Kansas, a city of the second class, by the power vested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to exempt itself from and makes inapplicable to it K.S.A. 79-1952 which is not applicable uniformly to all cities of the second class, and the legislature, not having established classes of cities for the purpose of imposing tax limitations and prohibitions, provides for substitute and additional provisions as hereinafter provided.

Section 2. The governing body of the City of Ellis, Kansas is hereby authorized and empowered to levy taxes in each year for the following purposes, but said governing body shall not fix a rate of levy in any one year on each dollar of assessed tangible valuation of the city in excess of the following rates:

General Operating Fund (which shall include the following activities) - 16 mills

General Government

Police Department

Fire Department

Health and Sanitation, including Refuse collected and disposal

Highways (all public travelled ways, including bridges)

Sewage Maintenance

Sewage Treatment and Disposal

Parks

Cemeteries

Street Lighting and other authorized public lighting

Traffic Control

Swimming Pools and Parks

Fire Equipment

Reserve - .50 mills

Library - 3 mills

(Provided that 2 mills of said levy shall be outside the aggregate levy limit prescribed by this ordinance).

Industrial Fund, as provided and authorized by K.S.A. 1964, 13-1441 et seq. or any amendment thereto - 1 mill

Provided that the aggregate of all city-wide tax levies of such city except levies for the payment of bonds and interest thereon levies for the control and eradication of noxious weeds; the 2 mills of the library levy; the levy for the industrial fund, and levies authorized by other statutes to be outside the aggregate, is hereby limited to 20 mills on each dollar of assessed tangible valuation of said city.

(05-28-68)

CHARTER ORDINANCE NO. 9

A CHARTER ORDINANCE EXEMPTING THE CITY OF ELLIS, KANSAS FROM SECTION 32 OF CHAPTER 274 OF THE 1968 SESSION OF THE KANSAS LEGISLATURE, WHICH SECTION AMENDED K.S.A. 1967 SUPP. 14-201, PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT RELATING TO THE ELECTION AND APPOINTMENT OF CITY OFFICERS, AND THE TERMS OF OFFICERS.

Section 1. The City of Ellis, Kansas, by the power vested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to exempt itself from, and make inapplicable to it Section 32 of Chapter 274 of the 1968 Session of the Kansas Legislature, which statutory section is not applicable uniformly to all cities, and provide substitute and additional provisions as hereinafter set forth in this ordinance.

Section 2. There shall be elected on the first Tuesday in April of each odd-numbered year a mayor, city treasurer and one-half the number of councilmen, as hereinafter set forth in this section. The mayor, councilmen, and city treasurer shall hold their offices for a term of two years. One councilman from each ward shall be elected in an odd-numbered year, and the remaining councilman in each ward shall be elected in an even-numbered year. Councilmen elected in 1967 shall have terms expiring in 1969 and councilmen elected in 1968 shall have terms expiring in 1970.

Section 3. The mayor shall appoint, by and with the consent of the council, a municipal judge, a city marshal, city clerk, city attorney, and may appoint an assistant marshal, street commissioner, and such policemen and other officers as they may deem necessary. Officers so appointed and confirmed shall hold their offices for a term of one year, and until their successors are appointed and qualified, except the term of office of the municipal judge shall be for a term of two years, which term shall commence on the first Tuesday in April of each even-numbered year. The council shall by ordinance specify their duties and compensation and by ordinance may abolish any office created by them, whenever they deem it expedient. The council may retain a licensed professional engineer to act in the capacity of city engineer, for specifically defined duties, and provide for reasonable compensation for the service rendered.
(12-10-68)

CHARTER ORDINANCE NO. 10

A CHARTER ORDINANCE EXEMPTING THE CITY OF ELLIS, KANSAS FROM THE PROVISIONS OF K.S.A. 25-2108, RELATING TO THE HOLDING OF PRIMARY ELECTIONS WITHIN SAID CITY AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS THERETO.

Section 1. The City of Ellis, Kansas, under authority of Article 12, Section 5, of the Constitution of the State of Kansas hereby exempts itself from and makes inapplicable to it, the provisions of K.S.A. 25-2108, which applies to the said city,

but the provisions of which do not apply uniformly to all cities, and providing substitute and additional provisions on the same subject as hereinafter provided.

Section 2. Regardless of the number of candidates who have filed for election for any city office, there shall be no necessity of a primary election, and every person who has filed for any city office shall be listed on the ballot and be voted upon by the voters at the general election of city officers, to be held on the first Tuesday in April. The person from among the candidates who receives the largest number of votes at such general election shall be declared the winner in said election.

(04-27-71)

CHARTER ORDINANCE NO. 11

A CHARTER ORDINANCE EXEMPTING THE CITY OF ELLIS, KANSAS, FROM K.S.A. 79-1952 AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT; AUTHORIZING AND LIMITING TAX LEVIES IN ANY ONE YEAR ON EACH DOLLAR OF ASSESSED TANGIBLE VALUATION, AND PRESCRIBING AN AGGREGATE FOR ALL CITY-WIDE TAX LEVIES.

Section 1. The City of Ellis, Kansas, a city of the second class, by the power vested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to exempt itself from and makes inapplicable to it K.S.A. 79-1952, which is not applicable uniformly to all cities of the second class, and the legislature not having established classes of cities for the purpose of imposing tax limitations and prohibitions, provides for substitute and additional provisions as hereinafter provided.

Section 2. The governing body of the City of Ellis, Kansas, is hereby authorized and empowered to levy taxes in each year for the following purposes, but said governing body shall not fix a rate of levy in any one year on each dollar of assessed tangible valuation of the city in excess of the following rates:

General Operating Fund (which shall include the following activities - No Limit
Police Department
Fire Department
Health and Sanitation, including refuse collected and disposal
Highways (all public traveled, ways, including bridges)
Sewage Maintenance
Sewage Treatment and Disposal
Parks
Cemeteries
Street Lighting and other authorized public lighting
Traffic Control
Swimming Pools and Parks
Fire Equipment
Reserve - 40 mills

Library - 3 mills
(Provided that 2 mills of said levy shall be outside the aggregate levy limit prescribed by this ordinance)
Industrial Fund, as provided and authorized by K.S.A. 1964, 13-1441 et seq. or any amendment thereto - 1 mill
Provided that the aggregate of all city-wide tax levies of such city except levies for the payment of bonds and interest thereon; levies for the control and eradication of noxious weeds; the 1 mill of the library levy; the levy for the industrial fund, and levies authorized by other statutes to be outside the aggregate, is hereby limited to the maximum allowed by law on each dollar of assessed tangible valuation of said city.
(06-10-75)

CHARTER ORDINANCE NO. 12

A CHARTER ORDINANCE AMENDING CHARTER ORDINANCE NO. 2 OF THE CITY OF ELLIS, KANSAS, PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS FOR THE FILLING OF VACANCIES IN THE OFFICE OF COUNCILMAN, EXEMPTING THE CITY OF ELLIS, KANSAS, FROM THE PROVISIONS OF K.S.A. 14-204, PROVIDING ADDITIONAL AND SUBSTITUTE PROVISIONS FOR THE SAME SUBJECTS.

Section 1. The City of Ellis, Kansas, a mayor-council city of the second class, by the power vested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects and exempts itself from, and makes inapplicable to it, K.S.A. 14-204. Said statute applies only to the mayor-council cities of the second class and applies to said city.

Section 2. Section 1-202 of the Code of Ordinances of the city of Ellis, Kansas is repealed.

Section 3. Each ward of the City of Ellis shall have two councilmen, who shall be chosen by the qualified electors of their respective wards and no person shall be eligible to the office of councilman who is not at the time of his election or appointment an actual resident of the ward for which he is elected or appointed, and if any councilman shall move from the ward from which he was elected or appointed, his office as councilman shall thereby become vacated. Whenever there shall be a tie in the election of councilman for the City of Ellis, Kansas, shall be filled by appointment by the mayor, with the consent of the majority of the remaining members of the city council. Said appointment shall be for the unexpired term of the office.
(09-14-76)

CHARTER ORDINANCE NO. 13

A CHARTER ORDINANCE EXEMPTING THE CITY OF ELLIS, KANSAS, FROM THE PROVISIONS OF THE 1978 SUPPLEMENTS TO KANSAS STATUTES ANNOTATED 75-1117, 75-1120, 75-1121 AND 75-1122, SO AS TO NOT REQUIRE SAID CITY TO MAINTAIN FIXED ASSET RECORDS AND ACCOUNTINGS.

Section 1. That the City of Ellis, Kansas, a city of the second class, who and by virtue of the power vested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to exempt itself and does hereby exempt itself from the provisions of K.S.A. 75-1117, 75-1120, 75-1121, and 75-1122, as amended by the 1978 supplements thereto, and makes said statutes require the City of Ellis, Kansas, to maintain fixed asset records and accountings.
(02-27-79)

CHARTER ORDINANCE NO. 14

A CHARTER ORDINANCE EXEMPTING THE CITY OF ELLIS, KANSAS, FROM K.S.A. 79-5011; PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT.

(Repealed by Charter Ordinance No. 15)

CHARTER ORDINANCE NO. 15

A CHARTER ORDINANCE EXEMPTING THE CITY OF ELLIS, KANSAS, FROM K.S.A. 79-5001 TO K.S.A. 79-5017, PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT AND REPEALING CHARTER ORDINANCE NO. 14.

Section 1. The City of Ellis, Kansas, by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby elects to exempt itself from and make inapplicable to it K.S.A. 79-5001 to K.S.A. 79-5017 and to provide substitute and additional provisions as hereinafter set forth in this charter ordinance. K.S.A. 79-5001 et seq. is a part of an enactment of the legislature establishing an aggregate tax levy limitation applicable to this city but not applicable uniformly to all cities, and the legislature has not established classes of cities for the purpose of imposing aggregate limitations under said constitutional provision.

Section 2. The provisions of K.S.A. 79-5001 to K.S.A. 79-5017, inclusive, shall not apply to or limit the levy of taxes by the City of Ellis for the payment of:

- (a) Principal and interest upon bonds and temporary notes;
- (b) No-fund warrants issued with the approval of the state board of tax appeals;
- (c) Legal judgments rendered against the city;
- (d) Rent due under any lease with a public building commission;
- (e) Special assessments charged against the city at large.

Section 3. The provisions of Article 50 of Chapter 79 of the Kansas Statutes Annotated shall not apply to any taxes levied by the City of Ellis, levied under the provisions of K.S.A. 40-2305, 74-4920, 74-4967, 12-11a03, 13-1441, 12-1617h, 13-14,100 and K.S.A. 1977 Supp. 13-14a02 or 14-10a02, or to any tax levies required for the payment of employer contributions to any pension and retirement program, or to any other taxes authorized by state law to be levied in addition to or exempt from the aggregate levy limitation of the City of Ellis.

Amounts produced from any levy specified or authorized in this charter ordinance, including any levy or purpose authorized to be levied in addition to or exempt from the aggregate levy limit of the city, shall not be used in computing any aggregate limitation under Article 50 of Chapter 79 of the Kansas Statutes Annotated.

Section 4. Charter Ordinance No. 14 of the City of Ellis, Kansas, as passed on the 22nd day of May, 1979, is hereby repealed.

(03-25-80)

CHARTER ORDINANCE NO. 16

A CHARTER ORDINANCE EXEMPTING THE CITY OF ELLIS, KANSAS, FROM K.S.A. 79-1952 AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT.

Section 1. The City of Ellis, Kansas, by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby elects to exempt itself from and make inapplicable to it K.S.A. 79-1952 and to provide substitute and additional provisions as hereinafter set forth.

Section 2. The provisions of K.S.A. 79-1952 shall not apply to or limit the levy of taxes by the City of Ellis, Kansas.

Section 3. The governing body of the City of Ellis, Kansas, is hereby authorized and empowered to levy taxes in each year for the general fund and other city purposes, but said governing body shall not fix a rate of levy in any one year on each dollar of assessed tangible valuation of such city for any of the following named purposes in excess of the following-named rates:

- Library - 4.00 mills
- Airport - Joint operation as provided by K.S.A. 1977 Supp. 3-121 - .50 mills.
- Highway Connecting Link: County Secondary as provided by K.S.A. 1977 Supp. 68-582 - 1.00 mills.
- Industrial Development: As provided by K.S.A. 12-1617h - 1.00 mills.
- Memorial Buildings: As provided by K.S.A. 73-407 - .50 mills.
- Noxious Weeds: As provided by K.S.A. 2-1318 - 1.00 mills.
- Deficiency Levy for Chemicals and Materials - .50 mills.
- Refuse Collection: AS provided by K.S.A. 12-2104 - 1.00 mills.

(04-08-80)

CHARTER ORDINANCE NO. 17

A CHARTER ORDINANCE EXEMPTING THE CITY OF ELLIS FROM K.S.A. 79-5001 TO 79-5017, INCLUSIVE, AND ANY AMENDMENTS THERETO.

Section 1. The City of Ellis, Kansas, by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby elects to exempt itself from and make inapplicable to it K.S.A. 79-5001 to 79-5017, inclusive, and any amendments thereto, which is an enactment of the legislature applicable to this city but which is not applicable uniformly to all cities.

Section 2. The provisions of K.S.A. 79-5001 to 79-5017, inclusive, and any amendments thereto, shall not apply to any taxes levied by the City of Ellis.

(05-11-82)

CHARTER ORDINANCE NO. 18

A CHARTER ORDINANCE EXEMPTING THE CITY OF ELLIS, KANSAS, FROM THE PROVISIONS OF K.S.A. 79-5028, AS AMENDED BY 1990 HOUSE BILL NO. 2700, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT.

Section 1. The City of Ellis, by the power vested in it by Article 12, Section 5 of the constitution of the State of Kansas and as provided by K.S.A. 79-5036(a), as amended by 1990 House Bill No. 2700, hereby elects to exempt itself from the provisions of K.S.A. 79-5028, as amended by 1990 House Bill No. 2700. K.S.A. 79-5028, as amended is part of an enactment commonly known as the Kansas property tax lid law, which enactment applies to this city but does not apply uniformly to all cities.

Section 2. The following is hereby substituted for the provisions of K.S.A. 79-5028, as amended: The provisions of K.S.A. 79-5021 to 79-5035, inclusive, and amendments thereto, shall not limit the levy of taxes by the governing body of the City of Ellis.

(06-12-90)

CHARTER ORDINANCE NO. 19

A CHARTER ORDINANCE EXEMPTING THE CITY OF ELLIS, KANSAS, FROM THE PROVISIONS OF K.S.A. 12-4112; AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS THEREFORE AUTHORIZING AND SETTING THE ASSESSMENT OF COURT COSTS IN CASES HEARD IN THE MUNICIPAL COURT OF THE CITY OF ELLIS, KANSAS.

Section 1. The City of Ellis, Kansas, a city of the second class, by virtue of the power vested in it by Article 12, Section 3, of the constitution of the State of Kansas, hereby elects to exempt and does exempt itself from and make inapplicable to it K.S.A. 12-4112 adopted by the Kansas legislature that it is not uniformly applicable to all cities, the legislature having made special provisions applying to certain classes of cities in said enactment.

Section 2. In lieu of K.S.A. 12-4112, the governing body of the City of Ellis, Kansas, hereby adopts the following provisions;

(a) In all municipal court cases where the accused person or persons plead guilty or nolo contendere, or is found guilty, of a violation of the ordinances of the City of Ellis, Kansas, shall be assessed costs for the administration of justice in the municipal court of the City of Ellis, Kansas, and such costs shall be determined by ordinance.

(09-10-91)

CHARTER ORDINANCE NO. 20

A CHARTER ORDINANCE EXEMPTING THE CITY OF ELLIS, KANSAS, FROM K.S.A. 14-1034 AND ANY AND ALL AMENDMENTS MADE TO THAT SECTION; AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS FOR THE ELECTION OF CITY COUNCILMEMBERS; AND REPEALING ALL CONFLICTING ORDINANCES.

Section 1. The City of Ellis, Kansas, a city organized under the laws of the State of Kansas as a city of the second class, by virtue of its home rule power vested in it by Article 12, Section 5 of the constitution of the State of Kansas hereby elects to exempt and does exempt itself from K.S.A. 14-103 as it now exists or is hereafter amended.

Section 2. In lieu of and as a replacement to K.S.A. 14-103, the governing body of the City of Ellis, Kansas, hereby adopts the following provisions:

(a) The city council shall divide the city into wards, which shall be as equal in population as is practical, establish the boundaries thereof and number the same for the purpose of providing separate polling places for the population of the city to vote. The territory of each ward shall be contiguous and compact.

(b) The city council of the City of Ellis, Kansas, shall consist of six members and a mayor. All councilmembers shall be elected by the city at large. Each voter shall have one vote for each city council seat that is up for election. A number of councilmembers shall be elected based upon each candidate's vote total with such number being equal to the available number of council seats.

(08-28-96)

CHARTER ORDINANCE NO. 21

A CHARTER ORDINANCE EXEMPTING THE CITY OF ELLIS, KANSAS, FROM K.S.A. 14-201 AND AMENDMENTS THERETO AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT RELATING TO THE ELECTION OF COUNCIL MEMBERS; APPOINTMENT OF CITY OFFICERS; AND TERMS OF SUCH OFFICERS; AND REPEALING ALL CONFLICTING ORDINANCES.

Section 1. The City of Ellis, Kansas, a city of the second class, by virtue of its home rule power vested in it by Article 12, §5 of the Constitution of the State of Kansas hereby elects to exempt and does exempt itself from and make inapplicable to it K.S.A. 14-201 and amendments thereto. K.S.A. 14-201 as adopted by the Kansas Legislature is not uniformly applicable to all cities inasmuch as the legislature has made special provisions applicable to certain classes of cities, and this provision only applies to cities of the second class.

Section 2. In lieu of K.S.A. 14-201, the governing body of the City of Ellis, Kansas, hereby adopts the following substitute provisions:

There shall be elected on the first Tuesday in April of each odd numbered year a mayor, city treasurer, and one-half the number of council members that constitute the governing body of the City of Ellis, Kansas. The mayor, council members, and city treasurer shall hold their offices for a term of two years. The remaining seats of the governing body not up for election on odd numbered years shall be elected in even numbered years. Council members elected in 1996 shall have terms expiring in 1998 and council members elected in 1995 shall have terms expiring in 1997.

The mayor shall appoint, by and with the consent of the council, a municipal judge, chief of police, a city clerk, city attorney, and may appoint police officers and any other officers deemed necessary. Any officer so appointed and confirmed shall hold their offices for a term of one year and until their successors are appointed and qualified, except the term of office of the municipal court judge shall be for a term of two years, which term shall commence on the first Tuesday in April of each even numbered year. The council shall by ordinance specify their duties in compensation and by ordinance may abolish any office created by them, whenever they deem it to be expedient. The council may retain a licensed professional engineer to act in the capacity of city engineer, for specifically defined duties, and provide for reasonable compensation for any services rendered.
(12-11-96)

CHARTER ORDINANCE NO. 22

A CHARTER ORDINANCE EXEMPTING THE CITY OF ELLIS, KANSAS, FROM THE PROVISIONS OF K.S.A. 12-1697(a) AND FROM THE PROVISIONS OF K.S.A. 12-1698(e) WHICH RELATE TO THE LEVY OF A TRANSIENT GUEST TAX, TO THE MAXIMUM RATE THEREOF, AND TO THE PURPOSES FOR WHICH TRANSIENT GUEST TAX REVENUES MAY BE APPLIED.

Section 1. The City of Ellis, Kansas, by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby elects to exempt itself from the provisions of K.S.A. 12-1697(a) and K.S.A. 12-1698(e), which relate to the levy of a transient guest tax, to the maximum rate thereof, and the purposes for which transient guest tax revenues may be applied. Such referenced statutes are applicable to the City of Ellis, Kansas but are not uniformly applicable to all cities in the State of Kansas.

Section 2. The Governing Body of the City of Ellis, Kansas is hereby authorized to levy a transient guest tax at a rate not to exceed five percent (5%) upon gross receipts derived from or paid by transient guests for sleeping accommodations, exclusive of charges for incidental services or facilities, in any hotel, motel or tourist court. The percentage of such tax shall be determined by the Governing Body and shall be specified in an ordinary ordinance authorizing the same.

Section 3. Revenues received by the City from the transient guest tax shall be expended solely and only for the purpose of promoting activities relating to conventions and tourism; for advertisement of tourist activities; for the purpose of

paying all or part of the cost of designing, acquiring, constructing, reconstructing, improving, equipping, furnishing, repairing, enlarging, remodeling, operating and maintaining capital projects related to conventions and tourism, including, but not limited to real estate, buildings, improvements, furnishings, machinery and equipment for a convention center or visitors bureau.
(02-19-07)

APPENDIX B - FRANCHISES

ORDINANCE NO. 1031

AN ORDINANCE OF THE CITY OF ELLIS, KANSAS, GRANTING TO KAYS, INC., ITS SUCCESSORS, LESSEES AND ASSIGNS, FOR A PRIMARY TERM OF 10 YEARS TO BE EXTENDED TO 15 YEARS, THE RIGHT, AUTHORITY, POWER AND FRANCHISE TO ESTABLISH, CONSTRUCT, ACQUIRE, MAINTAIN, AND OPERATE A COMMUNITY ANTENNA AND CLOSED CIRCUIT ELECTRONIC SYSTEM WITHIN THE CITY OF ELLIS, KANSAS, AND ENVIRONS THEREOF, AND TO USE AND OCCUPY THE STREETS AND OTHER PUBLIC PLACES OF THE CITY OF ELLIS, KANSAS, FOR SUCH COMMUNITY ANTENNAE AND CLOSED CIRCUIT ELECTRONIC SYSTEM, AND REPEALING PAST ORDINANCES IN CONFLICT.

Section 1. Definitions. For the purpose of this ordinance, the following terms, phrases, words, abbreviations, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, provided further that the word shall is to be construed as mandatory.

(a) City - shall mean the City of Ellis, Kansas, a municipal corporation, or its successors, and shall include the city in its present incorporated form or in any later reorganized, consolidated, enlarged or reincorporated form.

(b) Council - shall mean the present governing body of the city or any future board constituting the legislative body of the city.

(c) Franchise - shall mean and include the right to conduct and operate a community antennae television system within the city subject to the terms and conditions hereinafter stated in the above-captioned ordinance.

(d) Franchisee - shall mean the person, firm, or corporation to whom or which a franchise, as hereinabove defined, is granted by the commission under this ordinance, and the lawful successors, transferee, lessee, or assignee of the person, firm, or corporation.

(e) Street - shall mean any public street, roadway, highway, alley or other public right-of-way now or hereafter subject to the jurisdiction and regulation of the city as provided by the laws of the State of Kansas, and any subsequent amendments thereof.

(f) Community Antennae Television System - hereinafter referred to as CATV System shall mean an electronic system with properties and facilities so constructed as to be used for the interception and receipt of electromagnetic radiation, and the transmission and distribution of same to subscribers by means of cable and other related facilities.

(g) Subscriber - shall mean any person which receives from the franchisee herein named, the services of the franchisee's community antennae system.

(h) Person - shall mean any individual or association of individuals, or any firm, corporation or other business organization.

(i) Gross Receipts - The term gross receipts as applied to sales and services of community antennae and close circuit electronic service, shall include basic cable channels sold for domestic, residential or commercial consumption. This shall not include installation, repair and maintenance charges.

(j) Basic Cable - The term basic cable as used herein shall mean those cable services offered as the first tier of services to subscribers and shall include the minimum of services sold or extended by franchisee to subscribers.

(k) Non-Basic Cable - The term non-basic cable as used herein shall mean all of those cable services offered by franchisee in addition to or supplemental to basic cable, and shall include any and all second tier or premium services sold or extended by franchisee to subscribers.

Section 2. Grant of Non-Exclusive Franchise. After public hearings affording an opportunity to be heard to all interested parties, and after a review of the qualification of KAYS, Inc., and after determining that to the best of their knowledge KAYS, Inc., is legally qualified, of good reputation, adequately financed, and technically competent to provide community antennae television services to the city and after determining that the construction arrangements of KAYS, Inc., are adequate and feasible, there is hereby granted unto KAYS, Inc., a non-exclusive franchise to construct, erect, operate and maintain a community antennae television system within the city, and in so doing to use the streets of the city by erecting, installing, constructing, repairing, replacing, reconstructing, maintaining and retaining in, on, upon, or across any such streets, such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be necessary and appurtenant to a CATV system, and in addition, so to use, operate and provide for all or part of such facilities by service offerings obtained from any franchises or operating utility company providing service within the city.

Section 3. Term of Franchise. The term of this franchise ordinance shall not take effect unless and until the same shall have been read in full at three regular meetings of the governing body of the city and immediately thereafter published in the official city paper once a week for two consecutive weeks, and until 60 days from the date of its final passage, and then shall take effect only in conformity with the laws of the State of Kansas. The conditions set forth in this franchise ordinance continue for a term of 10 years from the date and shall continue for an additional five years thereafter unless the city shall have notified the franchisee by writing on or before the beginning of the 9th year of this franchise to the contrary, subject to the provisions of Section 11 herein. Franchisee shall indicate acceptance of this agreement or the lack thereof, by filing accordingly such indication with the city clerk within 30 days of final passage of this ordinance.

Section 4. Standards for Construction of Franchisee's Facilities. Any construction of facilities after the effective date of this ordinance shall comply with the following standards:

(a) The construction of the properties and facilities of the franchisee's CATV system shall conform, at least, to the standards of the National Electrical Code of the National Board of Fire Underwriters in the latest edition thereof, at the time any such properties and facilities shall be constructed or reconstructed, provided further that the construction shall be in conformance with all laws and regulations of the United States of America and the State of Kansas and any administrative agency thereof, having jurisdiction to regulate the construction of the CATV system.

(b) All transmission and distribution structures, lines and equipment erected by the franchisee within the city shall be so located as to cause minimum interference

with the proper use of streets, easements, sidewalks, alleys and other public ways and places, and to cause minimum interference with the rights and reasonable convenience of property owners who join any of the streets, easements, sidewalks, alleys or other public ways and places.

(c) In case of disturbance caused by the franchisee or any street or paved area, the franchisee shall, at its expense and in a manner approved by the city, replace and restore such street or paved area in as good condition as theretofore existed.

(d) The franchisee shall have the authority, in conformity with the ordinances of the city including any ordinances presently existing or which may be passed at any point in the future, and under the supervision of the governing body of the city and within the city limits, to trim trees which are located upon and overhang the public streets and other public ways of the city, so as to prevent the branches of such trees from coming in contact with the franchisee's properties.

(e) The franchisee shall not place poles or other fixtures where the same will interfere with any existing gas, electric or telephone fixtures, water hydrants or mains, or sewer mains, and all such poles or other fixtures placed in any street shall be placed at the outer edge of existing or proposed sidewalk and inside the curb line, and those placed in alleys shall be placed close to the line of the lot abutting on the alley, and then in such a manner as not to interfere with the usual travel on the streets, alleys and public ways.

Section 5. Operating Standards. The franchisee's CATV system shall be constructed, operated and maintained in accordance with the highest accepted standards of the community antennae television industry to insure that the subscriber receives the highest quality of service and shall at all times be in conformance with the Federal Communications Commission rules, regulations and proof of performance test provisions.

Section 6. Additional Standards of Operations. The franchisee shall comply with the following additional standards of operations:

(a) The franchisee shall at all times make and keep full and complete plats, maps and records showing exact location of its facilities located within the public ways of the city. A copy of such records shall be kept within the city and available for inspection by the city superintendent.

(b) The franchisee shall, at its expense, protect, support, temporarily disconnect, relocated in the same street or other public place, or remove from the street or other public place, any property of the franchise when lawfully required by the city by reason of traffic conditions, public safety, street vacation, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes, or any other type of structures or improvements by the city; but, the franchisee may in all cases have the right of abandonment of its property, subject to city ordinances and approval, if federal and state funds are available to any utility company for the purpose of defraying the cost of any of the foregoing, such funds shall also be made available to the franchisee if the federal or state regulations permit.

(c) The franchise shall, on the request of any person holding a building moving permit issued by the city, temporarily raise or lower its wires to permit the moving of a building. the expense of such temporary removal, and of raising or lowering of wires shall be paid by the person requesting the same, and the franchisee shall have the authority to require such payment in advance. The franchisee shall be

given no less than 48 hours advance notice to arrange for such temporary wire changes.

(d) The franchisee will limit failures to a minimum by locating and correcting malfunctions promptly, but in no event longer than 24 hours after notice has been given except the time shall be extended when the performance of this obligation is prevented by an act of God or the same is otherwise made impossible because of circumstances over which the franchisee has no control; and that the franchisee shall provide its subscribers with facilities for receiving requests and complaints for service. Should a subscriber have an unresolved complaint regarding cable television operation, the subscriber shall be entitled to file his or her complaint with the city clerk, who has primary responsibility for the continuing administration of the franchise and procedures of resolving complaints, and thereafter to meet jointly with the representative of the franchisee within 30 days to fully discuss and resolve such matters. The franchisee shall notify each subscriber of his or her rights to such a procedure if the complaint is not resolved to satisfaction of subscriber within 15 days.

(e) The franchisee shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public. All structures and all lines, equipment, and connections in, over, above, under, and upon all streets of the franchise area shall be kept and maintained in a safe and suitable condition and in good order and repair.

Section 7. Indemnification of City. It is expressly understood and agreed by and between the city and the franchisee that the franchisee shall protect and hold the city harmless from all claims, actions, suits, liability, loss, expense or damages of every kind and description, court costs, and reasonable attorney's fees, which may accrue to or be suffered or claimed by any persons arising out of the negligence of the franchisee in the ownership, construction, repair, replacement, maintenance and operation of the CATV system, provided the city gives prompt notice of any such claims, actions, and suits, without limitations, in writing. The franchisee shall maintain full force and effect during the life of any franchise, public liability insurance in an insurance company with a national rating acceptable to the city. The insurance shall be in the sum of no less than \$500,000 for personal injury to any one person; \$1,000,000 for personal injury in any one accident and \$500,000 for property damage in any one accident. All such insurance may contain reasonable deductible provisions not to exceed \$1,000 for any type of coverage, and the city shall be named as an additional insured. The city may require that any and all investigation of claims made by any person against the city arising out of any use or misuses of privileges granted to the franchise hereunder shall be made by, or at the expense of the franchisee or its insurer. The franchisee may bring its obligations to carry any insurance required hereby within the coverage of any so-called blanket policy or policies of insurance now or hereafter carried, by appropriate amendment, endorsement, or otherwise, provided, however, the interest of the city shall be as fully protected thereby as if the franchisee has obtained individual policies of insurance, and the city a named insured in any policy. The policy, or certificate of insurance, will be approved by the city attorney, and filed in the office of the city clerk; the city will receive prior notice of any intent to cancel insurance by the issuing company.

Section 8. Extensions. The franchisee is hereby authorized to extend the existing system within the franchise area to the extent that such is or may become

economically feasible. The franchisee acknowledges the city from time to time may add additional land to the city limits by annexation to which franchisee is obligated to serve under this franchise. The obligation shall occur whenever the franchise shall receive requests for service from at least 13 subscribers within 1,320 cable feet of its aerial trunk cable and the connection shall be solely for the usual connection and service fees for all subscribers, provided that such extension is technically feasible. The 1,320 feet shall be measured in extension length of franchisee's cable required for service located within the public way or easement and shall not include length of necessary service drop to the subscriber's home or premise. No person in the franchisee's service area shall be arbitrarily refused services; but in recognition of the capital costs involved in unusual circumstances, including, without limitations, when the distance from distribution cable to connection of service to subscribers is more than 150 feet or when a subscriber density exists less than the density specified herein above, service shall be made available on the basis of costs of materials, labor, and easements, plus 10 percent, in order to prevent inequitable burdens of potential cable subscribers in more densely populated areas.

Section 9. Assignments. All provisions of this ordinance shall be binding upon the franchisee and all successors, lessees and assigns of the franchisee whether expressly stated herein or not, however, the franchisee may not sell, transfer, assign or lease this franchise without the consent of the city, which shall not be unreasonably withheld.

Section 10. Statutory Regulations. The franchise herein granted shall be subject to all of the provisions of Article 20 of Chapter 12, K.S.A. and amendments thereof, as may be applicable to this franchise.

Section 11. Franchise Payments. (a) In consideration for the rights, privileges and franchise hereby granted, and as compensation to the city for the use of its public ways and places by the franchisee and in lieu of all occupation and license taxes, the franchisee shall, on or before the 31st day of January and the 31st day of July of each year pay to the city a sum equal to three percent of the receipts of basic cable. All payments will be accompanied by a certified notarized statement, from the sale of community antennae and closed-circuit electronic service within the then existing corporate limits of the city for the preceding six month period ending on the 31st day of December and the 30th day of June, respectively. Copyright tax, local and state sales tax and franchise tax may be an add-on to rates and may be automatically passed through to subscriber. If passed on, these costs shall be shown separately on billing to subscribers.

Section 12. Revocation of Franchise. The governing body of the city may revoke the franchise on the following grounds:

- (a) Willful and material breach of any terms or conditions of this franchise and violation of applicable law;
- (b) Misrepresentation of fact in the application for, or negotiation of this franchise;
- (c) Insolvency of the franchisee, or inability of the franchisee to pay its just debts, or application of the franchisee for adjudication as a bankrupt;

(d) Quality of operator's service has not been reasonable in light of cable-related community needs and interest, taking into account the cost of meeting such needs and interests, as determined by the city's governing body.

The city shall file with the franchisee a detailed list of the grounds alleged for revocation of the franchise. This notice shall include specific details of the acts, omissions, breaches, or other grounds asserted as warranting revocation. The notice shall also include the time and date established for a public hearing to be held on the matter before the governing body. The franchise shall have at least 60 days prior to the hearing and after receipt of the notice during which it may remedy the acts, omission, breaches, or other grounds asserted as giving cause for revocation and which are stated in the notice. If prior to the time of the public hearing, the city determines that the franchisee has taken action during or making significant progress toward eliminating the causes and grounds asserted as giving causes to revoke, the city shall either cancel the hearing or postpone the hearing for a reasonable time to a certain date, whichever is appropriate. Any evidence offered by the city, the franchisee, subscribers or any other interested person or entity, whether oral or written, shall be received by the governing body of it tends to substantiate or disprove the causes or grounds for revocation stated in the notice. The governing body shall determine based on all admissible evidence submitted to it at the hearing, whether or not to revoke the franchise. Upon a finding that the grounds for revocation as stated in the notice have been substantiated by a preponderance of the evidence, the governing body shall revoke the franchise, subject to judicial review sought by the franchisee. Revocation shall be accomplished by the passage of an ordinance and delivery of a certified copy of it to the franchisee.

Section 13. Procedure Upon Termination. Upon termination of the franchise, if the franchisee shall not have acquired an extension or renewal thereof and accepted the same, and if it shall not have sold its property in place, it shall promptly remove all its property; provided however, that the franchisee may have the rights and obligations of abandonment of its property, subject to city ordinance and approval. In so removing the property, the franchisee shall refill, at its expense, any excavation that it shall make and shall leave the streets in as good condition as that prevailing prior to the franchisee's removal of its property. Property abandoned as a result of the termination of the franchise and not removed or sold to a new franchisee within a period of one year from the date of the termination shall become the property of the city and the franchisee agrees to execute and deliver an instrument in writing transferring its ownership interest in any such property to the city.

Section 14. Improvements. As an inducement to franchise to continue to improve its systems and services offered at all times during the franchise period, the city hereby agrees to give franchisee the opportunity to negotiate a renewal of this franchise agreement with the city before the expiration of the initial franchise period herein stated. Assuming franchisee's operation under this franchise agreement has been satisfactory, that franchisee has continued an updating of the system, and after compliance with applicable rules and regulations of the Federal Communications Commission, the governing body may give favorable consideration to renewal of this franchise agreement by franchisee.

Section 15. Rights of the Franchisee. The franchisee shall have the authority to promulgate such rules, regulations, terms and conditions of its business as shall be reasonably necessary to enable the franchisee to exercise its rights and perform its services under this franchise and to assure an uninterrupted service to each and all of its customers. The provisions of Section 6(d) herein shall apply to the administration of the rates, regulations, terms and conditions.

Section 16. Rights Reserved to the City. Without the elimination upon the rights the city might otherwise have, the city does hereby expressly reserve the following rights, power and authorities:

(a) The franchisee shall at all times during the life of this franchise, be subject to all lawful exercise of the police power by the city, and to such reasonable regulation as the city shall hereafter by resolution or ordinance provide;

(b) The right of reasonable regulation of the erection, construction or installation of any facilities by the franchisee and to reasonably designate where such facilities are to be placed within the public ways and places;

(c) The right to grant additional CATV franchises with the city.

Section 17. City's Failure to Enforce the Terms and Conditions of this Franchise. The city's failure to enforce and remedy any noncompliance by the franchisee of the terms and conditions of this franchise ordinance shall not constitute a waiver of the city's rights hereunder, and the franchisee shall continue to perform its obligation as herein provided.

Section 18. Amendments to Franchise. Upon application of the franchisee, the city may amend the franchise to enable the franchisee to take advantage of any developments in the field of transmission of television and radio signals which will afford an opportunity to more effectively, efficiently or economically serve its customers, and to enable the franchisee to conform to the rules and regulations of the Federal Communications Commission as they may be amended from time to time.

Section 19. Franchisee is Without Remedy Against the City. The franchisee shall have no remedy or recourse whatsoever against the city for any loss, cost, expense or damage arising from any of the provisions or requirements of the franchise ordinance, or because of the enforcement thereof by the city for any loss, cost, expense or damage arising from any of the provisions or requirements of the franchise ordinance, or because of the enforcement thereof by the city for any loss, cost, expense or damage arising from any of the provisions or requirements of the franchise ordinance, or because of the enforcement thereof by the city, or for the failure of the city to have the authority to grant all, or any part, of the franchise herein granted; provided that the franchisee expressly acknowledges that it accepted the franchise herein granted in reliance upon its independent and personal investigation and understanding of the power of authority of the city to grant the franchise herein conferred upon the franchisee; provided further that the franchisee acknowledges by its acceptance of the franchise that it has not been induced to enter into this franchise upon any understanding of promise, whether given verbally or in writing by or on behalf of the city, or by any other person concerning any term of condition of this franchise not

expressed herein; provided further that the franchisee acknowledges by the acceptance of this franchise that it has carefully read the provisions, terms and conditions of.

Section 20. Miscellaneous Provisions. (a) Whenever, under the terms of this franchise ordinance, either party hereto shall be required or permitted to give notice to the other, such notice shall be in writing, and if to be served upon the city, it shall be delivered either by first class United States mail addressed to the office of the city clerk of the city or by personal delivery of the same to the persons, or his or her duly authorized agent for receiving the same, and if the notice be addressed to the franchisee, the same shall be delivered by either first class United States mail addressed to any officer of the franchisee or its resident agent, or by personally delivering the same to such person as hereinafter provided, or such other person as the franchisee shall from time to time direct.

(b) The franchisee shall assume the cost or publication of this franchise when such publication is required by law. A bill for publication costs shall be presented to the franchisee by the city clerk.

Section 21. Severability. If any section, paragraph, sentence, clause or phrase of this ordinance is for any reason held invalid by the decision of any court or regulatory body of competent jurisdiction, such decision shall not affect the validity of the remaining portions. The validity of any portion of this ordinance shall not abate, reduce or otherwise affect any consideration or other obligation required of the franchisee.

Section 22. Repeal of Conflicting Ordinances. all ordinances or parts of ordinances in conflict with the provisions of this ordinance and more particularly Ordinance No. 854 plus amending Ordinance No. 872 and Ordinance No. 938 of the city are hereby repealed.

(06-14-88)

ORDINANCE NO. 1051

AN ORDINANCE GRANTING TO MIDWEST ENERGY, INC., A KANSAS CORPORATION, ITS SUCCESSORS AND ASSIGNS, A NATURAL GAS FRANCHISE PRESCRIBING THE TERMS THEREOF AND RELATING THERETO, AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT WITH OR IN CONFLICT WITH THE TERMS THEREOF.

Section 1. That, in consideration of the benefits to be derived by the City of Ellis, Kansas, and its inhabitants, hereinafter called city, there is hereby granted to Midwest Energy, Inc., hereinafter called grantee or company, its successors and assigns, the right to use and occupy the streets, avenues, alleys and other public places within the city for the purpose of constructing, installing, maintaining and operating a natural gas transmission and distribution system including mains, pipes, conduits, services and other necessary structures and appurtenances, in, under, upon, over, across, and along the streets, alleys, bridges and public grounds within the present and future corporate limits of the city for the furnishing, transmission, distribution, and sale of natural gas, for heating, cooling, domestic, industrial and other

purposes, and for transmitting natural gas into, through and beyond the city from the of passage of this ordinance through the ____ day of _____, _____.

Section 2. All mains, pipes, conduits and services shall be installed and maintained so as to interfere as little as practicable with traffic over the streets, alleys, bridges and public places of the city.

When grantee shall do any work of construction, repair or maintenance of the system in the course of which any pavements, curbing or gutter upon any street, alley, bridge or public place shall be excavated, grantee shall properly protect excavations and shall promptly restore such street, alley, bridge or public place as far as practicable to as good condition as before such work was done.

Section 3. That, in consideration of the rights and privileges hereby granted, the grantee hereby undertakes and agrees to use reasonable effort to maintain good and adequate service to the city hereunder, but it is understood that the company does not guarantee that the supply of natural gas will at all times be continuous and it is agreed that temporary cessation of company's service hereunder occasioned by fire, explosion, flood, strike, insurrection, mob violence, governmental interference, breakdown or injury to machinery, or transmission or distribution lines or from other accidents or causes not reasonably within its control, shall not constitute a breach of this ordinance or any obligation arising hereunder on the part of the company; and, that grantee shall not be liable to city for any damages resulting from such temporary cessation of service.

Section 4. That, in consideration of the rights and privileges hereby granted, the grantee, its successors and assigns, shall locate its transmission and distribution lines in the streets, avenues, alleys and other public places in such manner as not to interfere with the use of the streets, avenues, alleys and public places. At times when city causes public improvements to be made to any of the streets, avenues, alleys or other public places within the city that are occupied by company's natural gas facilities, company shall, at city request, relocate its natural gas facilities at company's expense to conform to the city's planned improvement. If the grantee is required to move, alter or rebuild any of its natural gas facilities not located on public right-of-way, the cost of moving, altering or rebuilding the facilities shall be borne by the requesting party. In the event city vacates or otherwise abandons city right-of-way on which company facilities are located, or planned to be located, the ordinance vacating or abandoning such city right-of-way shall provide city granted easement to company.

Section 5. It is further agreed by the city and the company, that the rates now in effect or such rates as may be approved by the proper governmental authority having jurisdiction over the company, shall be deemed to be a reasonable schedule of maximum rates charged the city and its inhabitants for the service provided by the company.

Section 6. Subject to any restriction placed on company by regulatory authorities having jurisdiction over the company in consideration of and as compensation for the granting of this franchise by the city and in lieu of any licenses, fees and occupation or other revenue taxes, company shall collect from consumers and pay to the city an amount equal to two percent of the gross revenue derived from the

sales of natural gas within the corporate limits of the city, such payment to be made to the city monthly for the preceding monthly period.

The city shall have access to and the right to examine, at all reasonable times, all books, receipts, files, records and documents of company necessary to verify the correctness of the payments.

Section 7. That the company, its successors and assigns, in the construction, maintenance and operation of its natural gas transmission and distribution system, under the rights and privileges herein granted, shall exercise all reasonable and proper precaution to avoid damage or injury to persons or property, and shall hold and save harmless the city from any and all damage, injury and expense caused by the negligence of the company, its successors and assigns, or its or their agents or servants.

Section 8. It is further provided that should any section or sections of this ordinance be held null and void, or void or illegal by any court having jurisdiction in a proper action, such decision by such court shall not affect any other part of this ordinance not passed upon by such court.

Section 9. That all ordinances or parts of ordinances in conflict with or inconsistent with this ordinance are hereby repealed.

Section 10. This franchise is granted pursuant to the provisions of Article 20, Chapter 12, Kansas Statutes Annotated. (10-23-90)

ORDINANCE NO. 1103

AN ORDINANCE GRANTING TO MIDWEST ENERGY, INC., A KANSAS CORPORATION, ITS SUCCESSORS AND ASSIGNS, AN ELECTRIC FRANCHISE PRESCRIBING THE TERMS THEREOF AND RELATING THERETO, AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT WITH OR IN CONFLICT WITH THE TERMS THEREOF.

Section 1. That, in consideration of the benefits to be derived by the City of Ellis, Kansas, and its inhabitants, hereinafter called city, there is hereby granted to Midwest Energy, Inc., hereinafter called grantee or company, its successors and assigns, the right to use and occupy the streets, avenues, alleys, and other public places within the city for the purpose of constructing, erecting, operating and maintaining electric transmission and distribution lines and all necessary facilities and appurtenances for use in the transmission, distribution and sale of electricity for all purposes to the city and its inhabitants from the date of passage of this ordinance through the 31st day of December, 2010.

Section 2. The company is hereby given the right, under the supervision of the governing body of the city and within the city limits, to trim and cut such trees and foliage as may be reasonably necessary to prevent the same from interfering with the safe and efficient operation and maintenance of its transmission lines, distribution

system, street lighting equipment, and to establish reasonable rules and regulations for the conduct of its business.

Section 3. That, in consideration of the rights and privileges hereby granted, the grantee hereby undertakes and agrees to use reasonable effort to maintain good and adequate service to the city hereunder, but it is understood that the company does not guarantee that the supply of electrical energy will at all times be continuous and it is agreed that temporary cessation of company's service hereunder occasioned by fire, explosion, flood, strike, insurrection, mob violence, governmental interference, breakdown or injury to machinery, or transmission or distribution lines or from other accidents or causes not reasonably within its control, shall not constitute a breach of this ordinance or any obligation arising hereunder on the part of the company; and, that grantee shall not be liable to city or to any other person, firm or corporation for any damages resulting from such temporary cessation of service.

Section 4. That, in consideration of the rights and privileges hereby granted, the grantee, its successors and assigns, shall locate its distribution lines in the streets, avenues, alleys and other public places in such manner as not to interfere with the use of the streets, avenues, alleys and public places. At times when city causes public improvements to be made to any of the streets, avenues, alleys or other public places within the city which are occupied by company's electric facilities, company shall, at the city's request, relocate its electric facilities at company's expense to conform to the city's planned improvement. If the grantee is required to move, alter or rebuild any of its electric facilities not located on public right-of-way, the cost of moving, altering or rebuilding the facilities shall be borne by the requesting party. In the event city vacates or otherwise abandons city right-of-way on which company facilities are located, or planned to be located, the ordinance vacating or abandoning such city right-of-way shall provide city granted easement to company.

Section 5. It is further agreed by the city and the company, that the rates now in effect or such rates as may be approved by the proper governmental authority having jurisdiction over the company, shall be deemed to be a reasonable schedule of maximum rates charged the city and its inhabitants for the service provided by the company.

Section 6. Subject to any restrictions placed on company by regulatory authorities having jurisdiction over company in consideration of and as compensation for the granting of the franchise by the city and in lieu of all licenses, fees, and occupation or other revenue taxes, excepting any surcharge as agreed upon by the company shall collect from consumers and pay to the city an amount equal to three percent of the gross revenue derived from the sales of electric power and energy within the corporate limits of the city, such payment to be made to the city monthly for the preceding monthly period.

The city shall have access to and the right to examine, at all reasonable times, all books, receipts, files, records and documents of company necessary to verify the correctness of the payments.

Section 7. Without effecting the other terms of this ordinance, as further consideration for the rights and privileges hereby granted company and subject to any

restrictions placed on company by regulatory authorities having jurisdiction over company, company agrees that the city will have the option to open the provision of Section 6 relating to the percentage applied to gross receipts derived from applicable electric power and energy sales. Six months prior to the end of each five year period that this ordinance is in existence, the company and the city may renegotiate the percentage to be paid to the city during the succeeding five year period. If the company and the city cannot reach a mutual agreement on the percentage during such six month period, this ordinance shall become null and void.

Section 8. That the company, its successors and assigns, in the construction, maintenance and operation of its electric transmission, distribution and street lighting system, under the rights and privileges herein granted, shall exercise all reasonable and proper precaution to avoid damage or injury to persons or property, and shall hold and save harmless the city from any and all damage, injury and expense caused by the negligence of the company, its successors and assigns, or its or their agents or servants.

Section 9. It is further provided that should any section or sections of this ordinance be held null and void, or void or illegal by any court having jurisdiction in a proper action, such decision by such court shall not affect any other part of this ordinance not passed upon by such court.

Section 10. That all ordinances or parts of ordinances in conflict with or inconsistent with this ordinance are hereby repealed.

Section 11. This franchise is granted pursuant to the provisions of Article 20, Chapter 12, Kansas Statutes Annotated.
(12-31-95)

ORDINANCE NO. 1132

AN ORDINANCE OF THE CITY OF ELLIS, ELLIS COUNTY, KANSAS, GRANTING TO THE EAGLE COMMUNICATIONS, INC., A KANSAS CORPORATION, ITS SUCCESSORS AND ASSIGNS, FOR A TERM OF SEVEN YEARS, THE RIGHT, AUTHORITY, POWER AND FRANCHISE TO USE THE STREETS, AVENUES, BOULEVARDS, ALLEY AND OTHER PUBLIC PLACES IN THE CITY OF ELLIS, KANSAS, TO CONDUCT THE BUSINESS OF CONSTRUCTING, INSTALLING, MAINTAINING, MANAGING AND OPERATING A TELECOMMUNICATIONS SYSTEM IN THE CITY OF ELLIS, KANSAS.

Section 1. The Eagle Communications, Inc., a Kansas corporation duly authorized to do business in the State of Kansas and its successors, lessees and assigns (hereinafter called the grantee), is hereby granted, pursuant to K.S.A. 12-2001 et seq., as amended from time to time hereafter, in the operation of grantee's telecommunications system and its business and service incidental to or connected therewith, including, but not limited to, all telecommunications services now or hereafter authorized by the Kansas Corporation Commission or the Federal Communications

Commission (hereinafter called the system), within the City of Ellis, Kansas (hereinafter called the city), the franchise and right to use and occupy the streets and other public places within the corporate limits of the city, as the same now or may hereafter exist, for the grantee's system, including, but not limited to, the right to enter and construct, erect, locate, relocate, repair and rebuild in, on, under, along, over and across the streets, sidewalks, alleys, avenues, parkways, lanes, bridges, utility and other easements, rights-of-way and other public places of the city, all towers, poles, cables, amplifiers, conduits, pole and wire fixtures, telecommunications plant and apparatus of whatsoever kind and nature and any and all other associated and related facilities owned, leased or otherwise used by the grantee for the ownership and operation of the system within the city and environs thereof during the continuance of the franchise hereby granted (hereinafter called the franchise), but expressly subject to the restrictions and conditions hereinafter set forth.

Section 2. This franchise is non-exclusive and shall take effect and be in force from and after the expiration of 60 days from the date of its final passage by the governing body of the city and shall be for a term of seven years from the effective date hereof and for successive terms of five years unless written notice of termination is given by the city or the grantee at least 365 days prior to the expiration of the then existing term hereof.

Section 3. The grantee shall operate the system in such a manner as shall be to the benefit of the city and its inhabitants, providing good telecommunications therefrom; that the grantee shall have the authority to promulgate such rules, regulations, terms and conditions of its business as shall be reasonably necessary to enable the grantee to exercise its rights and operate the system under this franchise; and that the grantee shall have the right and power to fix, charge, collect and receive reasonable rates for the telecommunications services provided for hereunder as authorized by the Kansas Corporation Commission and any other governmental agency charged by law with the power to regulate telecommunications public utilities.

Section 4. All newly constructed, permanent wires and cable used in connection with the system in the city shall follow the electric utilities route. In the event the electric utility buries its cable, wires and appurtenances, the grantees shall be required to construct its facilities underground. In the event the electric utility constructs its facilities overhead, grantee shall be permitted to construct its facilities overhead to be placed on utility poles. Any and all such construction shall be located so as not to injure unnecessarily any drains, sewers, catch basins or other public improvements and, if such be injured, the grantee shall repair any damage so caused to the satisfaction of the city. The city reserves the right of reasonable regulation of the erection, construction or installation of any facilities by the grantee and to reasonably designate where such facilities are to be placed within the public ways and places of the city.

Section 5. The grantee shall, on the request of any person holding a building moving permit issued by the city or any other agency empowered to issue the same, temporarily move, raise or lower its cables, wires and other plant to permit the moving of any such building or buildings. The expense of such moving of wires, cables and plant shall be paid by the person requesting the same, and the grantee shall have

the authority to require such payment in advance. The grantee shall be given not less than 48 hours advance notice of any such anticipated moving of a building or buildings.

Section 6. The grantee shall have the authority to trim trees, shrubs and other vegetation located on any streets, alleys, sidewalks and public places of the city so as to prevent the branches of such trees, shrubs and vegetation from coming in contact with the wires, cables and plant of the grantee, all trimming to be done under the supervision and direction of the city and at the expense of the grantee.

Section 7. In consideration for the rights, privileges and franchise hereby granted, and as compensation to the city for the use of its public ways and places by the grantee and further as compensation to the city for administration of this franchise, and in lieu of all city occupation and license fees and taxes, the grantee shall pay to the city, in arrears, an amount equal to three percent of the annual gross receipts derived from monthly telecommunications services (installation and one time charges are not included) rendered wholly within the corporate limits of the city. Payments shall be made semi-annually as follows: (i) for the period of January 1st through June 30th of each year, or part thereof, during the term of the franchise, the payment shall be made not later than October 1st of the same year; and (ii) for the period of July 1st through December 31st of each year, or part thereof, during the term of the franchise, the payment shall be made not later than April 1st of the following year. In the event of the termination of the franchise, payment of franchise fees for the final reporting period shall be made on the applicable payment date above even though the franchise is no longer in effect. All franchise and copyright fees shall be itemized as separate charges and shall be charged back to grantee's customers.

Section 8. It shall be the policy of the city to amend this franchise, upon application of the grantee, when deemed advisable or necessary by the city, to enable the grantee to take advantage of any developments in the field of telecommunications systems and services which will afford the grantee an opportunity to more effectively, efficiently or economically serve its customers, and to enable the grantee to conform to the rules and regulations of any and all governmental agencies charged by law with regulation of telecommunications public utilities.

Section 9. Grantee shall maintain service personnel on call on a 24-hour, seven day a week basis to respond to customer service request calls. In addition, grantee shall provide a payment drop box at a convenient location within the city.

Section 10. Nothing herein contained shall be construed as giving to the grantee any exclusive privileges, nor shall this franchise affect any prior or existing rights of the grantee to maintain telecommunications service within the city.

Section 11. This franchise, and all rights hereunder, may be assigned by the grantee, as well as any succeeding grantee, at its option, and such successors and assigns shall succeed to all the rights, duties and obligations of the grantee hereunder.

Section 12. If any portion of this ordinance, for any reason whatsoever, is held to be invalid, such portion shall be considered severed from the remainder of this ordinance and the remainder shall be unaffected and continue in full force and effect.

Section 13. All ordinances and parts of ordinances in conflict herewith are hereby repealed as of the effective date of this ordinance.

Section 14. All provisions of this ordinance shall be binding upon the grantee and all successors, lessees and assigns of the grantee, whether expressly stated herein or not, and all the rights, authorities, powers, grants and privileges secured by this ordinance to the grantee shall be held to inure to the benefit of the grantee and all successors, lessees and assigns of the grantee.

(01-05-98)

ORDINANCE NO. 1218

AN ORDINANCE OF THE CITY OF ELLIS, KANSAS GRANTING TO GBT COMMUNICATIONS, INC., ITS SUCCESSORS, LESSEES AND ASSIGNS, FOR A TERM OF SEVEN (7) YEARS, THE NON-EXCLUSIVE RIGHT, AUTHORITY, POWER AND FRANCHISE TO ESTABLISH, CONSTRUCT, ACQUIRE, MAINTAIN AND OPERATE A COMMUNITY ANTENNAE AND CLOSED-CIRCUIT ELECTRONIC SYSTEM WITHIN THE CITY OF ELLIS, KANSAS, TO RENDER, FURNISH AND SELL COMMUNITY ANTENNAE AND CLOSED-CIRCUIT ELECTRONIC SERVICE THEREFROM WITHIN THE CITY OF ELLIS, AND ENVIRONS THEREOF, AND TO USE AND OCCUPY THE STREETS AND OTHER PUBLIC PLACES OF THE CITY OF ELLIS FOR SUCH COMMUNITY ANTENNAE AND CLOSED-CIRCUIT ELECTRONIC SYSTEM.

Section 1. After a full, open and public hearing, upon prior notice and the opportunity to all interested parties to be heard, and after review of the qualifications of GBT Communications, Inc. is legally qualified, adequately financed, and technically competent to provide community television services (hereinafter "Cable Television Services or Systems") to the City of Ellis, Kansas, and after determining the construction arrangement of GBT Communications, Inc. are adequate and feasible, there is hereby granted to GBT Communications, Inc. a corporation duly authorized to do business in the State of Kansas (hereinafter called the "Grantee"), and the Grantee's successors, lessees and assigns, for the full term of seven (7) years from the date hereof, the non-exclusive right, authority, power and franchise to establish, construct, acquire, maintain and operate a Cable Television System within the City of Ellis, Kansas (hereinafter called the "City") to render, furnish and sell Cable Television Services from such system to the inhabitants of the City and its environs, and to use and occupy the streets and other public places within the corporate limits of the City as the same now exist or may hereafter exist for its Cable Television System, including the right to enter and construct, erect, locate, relocate, repair and rebuild in, on, under, along, over and across the streets, alleys, avenues, parkways, lanes, bridges, easements, rights of way, and other public places of the City, all cables, amplifiers, conduits and other facilities owned, leased or otherwise used by the Grantee for the furnishing of Cable Television Services within the City and environs thereof during the continuance of the franchise hereby granted.

Section 2. Terms and conditions of operation. The authorization herein granted is conditioned upon compliance with the following terms and conditions:

That notwithstanding any grant or authority herein elsewhere made, it is expressly understood that the joint use on any and/or existing poles in place owned by the City, the Telephone Company, or others, is anticipated. The company shall not make use of any towers, pole or poles anywhere within the City, which may be owned by another, or by another with whom the City may now or hereafter have a joint user contract, which is by reference made a part hereof, without compensation by prior agreement with the owner(s) of said towers or poles. This franchise upon passage and publication by the City shall serve as a legal and binding joint pole use agreement between the City and Grantee.

The City, under this joint pole use agreement, does hereby grant at no charge to Grantee access to any purpose of attaching CATV cables thereto. Additionally, Grantee grants to the City under this joint pole use agreement at no charge access to any and all Grantee owned poles now and in the future, for the purpose of attaching City power cable thereto.

Section 3. Any pavements, sidewalks, or curbing taken up or any and all excavations made by the Grantee shall be done under the supervision and direction of the governing body of the City under permits issued for work by the proper officials of the City and shall be made and done in such a manner as to give the least inconvenience to the inhabitants of the City and the public generally, and all such pavements, sidewalks, curbing, and excavations shall be replaced and repaired in as good condition as before, with all convenient speed, by and at the expense of the Grantee, which shall at all times make and keep frill and complete plats, maps, and records showing the exact location of its facilities located within the public ways of the City, with copies of said maps provided to the City. The Grantee shall not place fixtures where the same will interfere with any gas, electric or telephone fixtures, water hydrants or mains, and all fixtures placed in any street shall be placed at the outer edge of the sidewalk and inside the curb line, and those placed in alleys shall be placed closer to the line of the lot abutting on said alley, and then in such a manner as not to interfere with the usual travel on said streets, alleys and public ways.

Section 4. It is expressly understood and agreed by and between the Grantee and the City that the Grantee shall save the City harmless from all loss sustained by the City on account of any suit, judgment, execution, claim or demand whatsoever, resulting from negligence on the part of the Grantee in the construction, operation or maintenance of its system in the City, and Grantee shall cause to be defended at its own expense all actions that may be commenced against the City by reason of the construction and/or operation of such system. The Grantee shall carry public liability and property damage insurance in the sum of \$1,000,000.00 Dollars for each individual, \$3,000,000.00 Dollars for each accident, and \$1,000,000.00 Dollars for property damage, with the City named as an additional insured, said insurance to be carried with an insurance company with a recognized national rating acceptable to the City.

Section 5. The Grantee shall have the authority to promulgate such rules, regulations, terms and conditions of its business as shall be reasonably necessary to enable the Grantee to exercise rights and perform its services to each and all of its

customers. The Grantee shall have the right and power to fix, charge, collect and receive reasonable rates for Cable Television Services furnished within the corporate limits of the City, subject to Section 10 hereafter.

Section 6. The City reserves the right of reasonable regulation of the erection, construction or installation of any facilities, towers, poles, cable, pedestals, or vaults by the Grantee and to reasonably designate where such facilities are to be placed within the public ways and places.

Section 7. The Grantee shall, on the request of any person holding a building moving permit issued by the City temporarily raise or lower its wires or cables to permit the moving of buildings. The expense of such temporary removal, and of raising or lowering of wires or cables, shall be paid by the person requesting the same, and the Grantee shall have the authority to require such payment in advance. The Grantee shall be given not less than forty-eight (48) hours advance notice to arrange for such temporary wire or cable changes.

Section 8. In the event that at any time during the period of this franchise the City shall lawfully elect to alter, or change the grade of, any street, alley or other public way, the Grantee, upon reasonable notice by the City, shall remove, relay and relocate its poles, wires, cables, underground conduits, manholes and other fixtures at Grantee's expense.

Section 9. The Grantee shall, at all times during the life of this franchise, be subject to all lawful exercise of the police power by the City, and to such reasonable regulation as the City shall hereafter by resolution or ordinance provide.

Section 10. In consideration for the rights, privileges and franchise hereby granted, and as compensation to the City for use of its public ways and places by the Grantee, and in lieu of all occupation and license taxes, the Grantee shall, on or before the 31st day of January of each year in which this franchise is effective, pay to the City a sum equal to three percent (3%) of the gross receipts, from the sale of basic community antennae and closed-circuit electronic services within the then existing corporate limits of the City for the preceding six (6) month period ending on the 31st day of December and the 30th day of June, respectively. The term "gross receipts" as applied to sales of basic community antennae and closed-circuit electronic service, as used in this Section, shall include basic service (excluding therefrom sales of pay television services of the Grantee, installation and re-connection charges, additional outlet charges, equipment sales and sales of program guides) sold for domestic or residential consumption, and the basic service for commercial or industrial consumption; provided, however, there shall not be included basic service sold to educational institutions not operating for profit, churches and charitable institutions, as such users are defined and construed by the Internal Revenue Service under current revenue acts.

Section 11. The City reserves the right to regulate rates and charges imposed by Grantee to the extent permitted by any present or future CATV system regulatory law.

Section 12. Grantee shall provide subscriber service on the following basis:

(A) Grantee shall:

(1) Provide a toll-free telephone service, on a seven-day-a-week, 24-hour-a-day basis capable of forwarding subscriber complaints to Grantee.

(2) Respond to subscriber complaints within 36 hours after the customer calls in, except for acts of God.

(3) In other cases where service is not restored within thirty-six (36) hours, except for acts of God, Grantee shall upon customer request refund or credit an appropriate portion of the monthly charge for tier service which is unavailable to the subscriber.

(B) Grantee shall cooperate with the City to maintain appropriate subscriber complaint offered at all times during the franchise period, the City hereby agrees to give Grantee the first opportunity to negotiate a renewal of this franchise agreement with the City after the expiration of the initial franchise period herein stated, Assuming Grantee's operation under this franchise agreement has been satisfactory, and after compliance with applicable rules and regulations of the Federal Communications Commission, the Governing Body shall give favorable consideration to renewal of this franchise agreement by Grantee, if Grantee so requests and provide evidence that it can and will provide facilities and services at least equal to other prospective franchisees offering similar services and facilities.

Section 14. This franchise and the rights, privileges, and authority herein granted shall take effect and be in force from and after final passage hereof, as provided by law, and shall continue in force and effect for a term of seven (7) years. Upon written request of either the City or the Grantee, this Franchise may be reviewed after seven (7) years from the effective date of this Ordinance, and every seven (7) years thereafter. Said request must be served upon the other party at least one hundred twenty (120) days prior to the end of every seven (7) years of the term of this Ordinance, and shall state specifically the amendments desired. The City and the Grantee shall negotiate in good faith in an effort to agree upon mutually satisfactory amendments.

Section 15. It shall be the policy of the City to amend this franchise, upon application of the Grantee, when necessary to enable the Grantee to take advantage of any developments in the field of transmission of television and radio signals which will afford it an opportunity to more effectively, efficiently or economically serve its customers, and to enable the Grantee to conform to the rules and regulations of the Federal Communications Commission as they may be amended from time to time.

Section 16. Upon termination of service to any subscriber, the Grantee shall promptly remove all its facilities and equipment from the premises of the subscriber.

Section 17. All ordinances and parts of ordinances in conflict herewith are hereby subordinated as of the effective date of this ordinance.

Section 18. All provisions of this ordinance shall be binding upon the Grantee and all successors, lessees and assigns of the Grantee whether expressly stated herein or not, and all the rights, authorities, powers, grants and privileges secured by

this ordinance to the Grantee shall be held to insure to the benefit of the Grantee and all successors, lessees and assigns of the Grantor.
(11-01-04)

ORDINANCE NO. 1245

AN ORDINANCE OF THE CITY OF ELLIS, ELLIS COUNTY, KANSAS. GRANTING TO THE EAGLE COMMUNICATIONS, INC., A KANSAS CORPORATION, ITS SUCCESSORS AND ASSIGNS, FOR A TERM OF FIVE (5) YEARS, THE RIGHT, AUTHORITY, POWER AND FRANCHISE TO USE THE STREETS, AVENUES, BOULEVARDS, ALLEYS AND OTHER PUBLIC PLACES IN THE CITY OF ELIS, KANSAS, TO CONDUCT THE BUSINESS OF CONSTRUCTING, INSTALLING, MAINTAINING, MANAGING AND OPERATING A TELECOMMUNICATIONS SYSTEM IN THE CITY OF ELLIS, KANSAS.

Section 1. The Eagle Communications, Inc., a Kansas corporation duly authorized to do business in the State of Kansas and its successors, lessees and assigns (hereinafter called the "Grantee"), is hereby granted, pursuant to K.S.A. 12-2001 et. seq. as amended from time to time hereafter, in the operation of Grantee's telecommunications system and its business and service incidental to or connected therewith, including, but not limited to, all telecommunications services now or hereafter authorized by the Kansas Corporation Commission or the Federal Communications Commission (hereinafter called the "System"), within the City of Ellis, Kansas (hereinafter called the "City"), the franchise and right to use and occupy the streets and other public places within the corporate limits of the City, as the same now or may hereafter exist, for the Grantee's System, including, but not limited to, the right to enter and construct, erect, locate, relocate, repair and rebuild in, on, under, along, over and across the streets, sidewalks, alleys, avenues, parkways, lanes, bridges, utility and other easements, rights-of-way and other public places of the City, all towers, poles, cables, amplifiers, conduits, pole and wire fixtures, telecommunications plant and apparatus of whatsoever kind and nature and any and all other associated and related facilities owned, leased or otherwise used by the Grantee for the ownership and operation of the System within the City and environs thereof during the continuance of the franchise hereby granted (hereinafter called the "Franchise"), but expressly subject to the restrictions and conditions hereinafter set forth.

Section 2. This Franchise is non-exclusive and shall take effect and be in force from and after the expiration of sixty (60) days from the date of its final passage by the Governing Body of the City and shall be for a term of five (5) years from the effective date hereto. Upon written request of either the City or the Grantee, this Franchise may be reviewed after five (5) years from said effective date of this ordinance, and every five (5) years thereafter. Said request must be served upon the other party at least one hundred twenty (120) days prior to the end of every five (5) years of the term of this Ordinance, and shall state specifically, the amendments desired. The City and Grantee shall negotiate in good faith in an effort to agree upon mutually satisfactory amendments.

Section 3. The Grantee shall operate the System in such a manner as shall be to the benefit of the City and its inhabitants, providing good telecommunications service therefrom: that the Grantee shall have the authority to promulgate such rules, regulations, terms and conditions of its business as shall be reasonably necessary to enable the Grantee to exercise its rights and operate the System under this Franchise; and that the Grantee shall have the right and power to fix, charge, collect and receive reasonable rates for the telecommunications services provided for hereunder as authorized by the Kansas Corporation Commission and any other governmental agency charged by law with the power to regulate telecommunications public utilities.

Section 4. All newly constructed, permanent wires, cable and fiber used in connections with the System in the City shall follow the electric utilities route. In the event the electric utility buries its cable, wires and appurtenances, the grantees shall be required to construct its facilities underground. In the event the electric utility constructs its facilities overhead, grantee shall be permitted to construct its facilities overhead to be placed on utility poles. Any and all such construction shall be located so as not to injure unnecessarily any drains, sewers, catch basins or other public improvements and, if such be injured, the Grantee shall repair any damage so caused to the satisfaction of the City. The City reserves the right of reasonable regulation of the erection, construction or installation of any facilities by the Grantee and to reasonably designate where such facilities are to be placed within the public ways and places of the City.

Section 5. The Grantee shall, on the request of any person holding a building moving permit issued by the City or any other agency empowered to issue the same, temporarily move, raise or lower its cables, wires another plant to permit the moving of any such building or buildings. The expense of such moving of wires, cables and plant shall be paid by the person requesting the same, and the Grantee shall have the authority to require such payment in advance. The Grantee shall be given not less than fort-eight (48) hours advance notice of any such anticipated moving of a building or buildings.

Section 6. The Grantee shall have the authority to trim trees, shrubs and other vegetation located on any streets, alleys, sidewalks and public places of the City so as to prevent the branches of such trees, shrubs, and vegetation from coming in contact with the wires, cables and plant of the Grantee, all trimming to be done under the supervision and direction of the City and at the expense of the Grantee.

Section 7. In consideration for the rights, privileges and franchise hereby granted, and as compensation to the city for the use of its public ways and places by the Grantee and further as compensation to the City for administration of this Franchise, and in lieu of all city occupation and license fees and taxes, the Grantee shall pay to the City, in arrears, an amount equal to three percent (3%) of the annual gross receipts derived from monthly telecommunications services (installation and one time charges are not included) rendered wholly within the corporate limits of the City. Payments shall be made semi-annually as follows (i) for the period of January 1 through June 30 of each year, or part thereof, during the term of the Franchise, they payment shall be made not later than October 1 of the same year; and (ii) for the period of July 1 through December 31 of each year, or part thereof, during the term of the

Franchise, the payment shall be made not later than April 1 of the following year. In the event of the termination of the Franchise, payment of franchise fees for the final reporting period shall be made on the applicable payment date above even though the Franchise is no longer in effect. All franchise and copyright fees shall be itemized as separate charges and shall be charged back to grantee's customers.

Section 8. It shall be the policy of the city to amend this Franchise, upon application for the Grantee, when deemed advisable or necessary by the City, to enable the Grantee to take advantage of any developments in the field of telecommunications systems and services which will afford the Grantee an opportunity to more effectively, efficiently or economically serve its customers, and to enable the Grantee to conform to the rules and regulations of any and all governmental agencies charged by law with regulation of telecommunications public utilities.

Section 9. Grantee shall maintain service personnel on call on a 24-hour, seven days a week basis to respond to customer service request calls. In addition, Grantee shall provide an active cable outlet in the City Hall office for emergency and monitoring purposes at no cost to the city as well as a payment drop box located within the City of Ellis.

Section 10. Nothing herein contained shall be construed as giving to the Grantee any exclusive privileges, nor shall this Franchise affect any prior or existing rights of the Grantee to maintain telecommunications service with the City.

Section 11. This Franchise, and all rights hereunder, may be assigned by the Grantee, as well as any succeeding grantee, at its option, and such successors and assigns shall succeed to all the rights, duties and obligations of the Grantee hereunder.

Section 12. If any portion of this Ordinance, for any reason whatsoever, is held to be invalid, such portion shall be considered severed from the remainder of this Ordinance and the remainder shall be unaffected and continue in full force and effect.

Section 13. All ordinances and parts of ordinances in conflict herewith are hereby repealed as of the effective date of this Ordinance.

Section 14. All provisions of this Ordinance shall be binding upon the Grantee and all successors, lessees and assigns of the Grantee, whether expressly stated herein or not, and all the rights, authorities, powers, grants and privileges secured by this Ordinance to the Grantee shall be held to inure to the benefit of the Grantee and all successors, lessees and assigns of the Grantee.

(05-15-06)

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