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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 Augusta, Kansas," and may be so cited. The Code may also be cited as the "Augusta City Code." (Code 1991; Code 2010)
- 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 Augusta, Kansas.
 - (b) Code - shall mean "The Code of the City of Augusta, 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 Butler 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) Director of Public Safety - shall include the positions of chief of public safety, fire chief and civil defense director.
 - (g) Gender - Words importing the masculine gender include the feminine and neuter.
 - (h) 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.

(i) 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 public safety powers or other regulatory powers.

(j) 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.

(k) Month - shall mean a calendar month.

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

(m) 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."

(n) 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.

(o) 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.

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

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

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

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

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

(u) 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.

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

(w) 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.

(x) 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.

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

(z) 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.

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

(Code 1991)

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 1991)

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 1991)

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 1991)

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 1991)

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 Augusta 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 Augusta 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 Augusta is hereby repealed." (Code 1991)

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 1991)

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 1975, 1-121; Code 1991)

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 1991)

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 1991)

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 1991)

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 1991)

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 Augusta 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 1991)

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 1991)

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 1991)

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 1991)

ARTICLE 2. GOVERNING BODY

- 1-201. GOVERNING BODY. The governing body shall consist of a mayor and eight councilmembers to be elected as set out in Charter Ordinance No. 12. (Code 1975, 1-101; Code 1991; Code 2010)
- 1-202. POWERS AND DUTIES. The governing body shall have the power to enact, ordain, alter, modify or repeal any and all regular ordinances and charter ordinances not repugnant to the constitution or the laws of the State of Kansas, and such as it shall deem expedient for the good government of the city, the preservation of the peace and good order, the suppression of the vice and immorality, the benefit of trade and commerce, and the health of the inhabitants and such other ordinances, rules and regulations as may be necessary to carry such power into effect, and the governing body shall be responsible for the city manager's efficient administration of the city's business. The governing body shall have such other powers and duties as may be now or hereafter conferred on governing bodies by law. The governing body shall further have the power to cause inquiry to be made at any time into the affairs and business of the city, but no member of the governing body shall directly interfere with the conduct of any department, except at the express direction of the governing body. (K.S.A. 12-103; Code 1975, 1-106)
- 1-203. SAME; MEETINGS. (a) Regular meetings of the governing body shall be held on the first and third Monday of each month at 7:00 p.m. In the event the regular meeting day shall fall on any legal holiday or any day observed as a holiday by the city offices, the governing body shall fix the succeeding day not observed as a holiday as a meeting day.
(b) Special meetings may be called by the mayor or acting mayor, on the written request of any three members of the city 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 1975, 1-110,112:116; Ord. 1835, Sec. 1; Ord. 1991; Code 2010)
- 1-204. SAME; QUORUM. In all cases, it shall require a majority of the councilmembers-elect to constitute a quorum to do business. (K.S.A. 14-111; Code 1975, 1-110; Code 1991)
- 1-205. MAYOR; POWERS AND DUTIES. The mayor shall preside at all meetings of the city council, and shall communicate to the city council such information and recommend such measures as he or she may deem advisable. He or she shall be the official head and chief executive officer of the city on all formal occasions and the mayor shall have the power to remit fines and forfeitures and grant reprieves and pardons for offenses arising under the ordinances of the city, by and with the consent of the council, in the manner prescribed in K.S.A. 14-310. The mayor shall have further power to appoint with the consent of the majority of

the councilmembers, all members to all city boards and commissions when the terms of such members expire or the office becomes vacant unless a different procedure for appointment is specified by ordinance or by the laws or constitution of the State of Kansas. (K.S.A. 14-301:302, 14-305, 14-310; Code 1975, 1-107)

1-206. **PRESIDENT OF THE COUNCIL.** The city council shall elect one of its own body as president of the council, at the first meeting after the election of the council. The president of the council shall preside at all meetings of the council in the absence of the mayor. In the absence of both the mayor and the president of the council, the council shall elect one of its members as "acting president of the council." The president and acting president, when occupying the place of mayor, shall have the same privileges as other councilmembers but shall exercise no veto. (K.S.A. Supp. 14-308; Code 1975, 1-108; Code 1991; Code 2010)

1-207. **VACANCIES IN GOVERNING BODY; HOW FILLED.** All vacancies occurring in the office of city councilmembers for the city, whether such vacancies occur by reason of the removal of a council member from his or her ward or by his or her death, resignation, the failure of a council member to qualify for office, or the disqualification of a council member for the holding of such office shall be filled by an election held among the remaining members of the city council of said city, and such election must be held at the next regular meeting of the governing body of the city or at a special meeting called thereto for the purpose of filling such vacancy or at an adjournment or continuance of such regular or special meeting and any successor in office elected by the governing body to fill such vacancy must be elected by a majority of the remaining councilmembers of the city, and should the remaining councilmembers of the city fail to elect a successor in office for the vacancy in office of council member after being polled three times by the mayor, or in his absence, the president of the council of said city, then and in the event, the mayor, or in his or her absence, the president of the council of the city, shall appoint a qualified person from the ward in which said vacancy exists to fill such unexpired term; and in the event any person so elected by the remaining members of the council or appointed by the mayor or president of the council in the manner aforesaid, should refuse, fail or neglect to qualify for such office by taking or subscribing to his or her oath for a period of 30 days following such election or appointment, as the case may be, then and in that event the mayor of said city shall forthwith appoint another qualified person to fill such vacancy. (C.O. No. 8, Sec. 5)

1-208. **COMPENSATION.** Members of the governing body shall receive as compensation such amounts as may be fixed by ordinance. (Code 1991)

1-209. **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, city council and/or city manager.

(b) Reimbursement for actual food and lodging expenses upon the performance of duties assigned by the mayor, city council and/or city manager,

provided such expenses shall be documented by proper receipts and taxed according to IRS regulations.
(Code 1991; Code 2010)

1-210. 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 Augusta, Kansas, that certain code known as the "Code of Procedure for Kansas Cities," current edition, 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 Augusta, 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 2010)

1-211. SAME; AMENDMENTS. The "Code of Procedure for Kansas Cities" as incorporated by reference in 1-210, shall have the following amendments: The first sentence in Section 42 is hereby changed to read as follows: "For those matters not covered by these rules, the procedure shall be as decided by Robert's Rules of Order."

1-212. SAME; DELETIONS. Section 40 of the "Code of Procedure for Kansas Cities" relating to confirmation of mayoral appointments to elected positions is hereby declared to be and is omitted and deleted.

ARTICLE 3. OFFICERS AND EMPLOYEES

- 1-301. 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 1975, 1-307:311; Code 1991)
- 1-302. 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 1975, 1-307:311; Code 1991)
- 1-303. 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 1975, 1-307:311; Code 1991)
- 1-304. 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 1975, 1-307:311,313:324; Code 1991)
- 1-305. DEPUTY CITY CLERK. (a) The office of deputy city clerk is hereby established. The city manager shall appoint the deputy city clerk.

(b) The deputy city clerk shall perform those duties assigned to that office by the city clerk or city manager.

(c) Whenever a vacancy occurs in the position of city clerk the city is without a person appointed, confirmed or qualified to hold that office, the deputy city clerk shall become the acting city clerk and fulfill the duties of that office. (Ord. 1285, Secs. 1:2; Code 1991; Code 2010)

1-306. CITY TREASURER. The city treasurer shall:

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

(b) Publish a quarterly financial statement;

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

(d) Pay out city funds only upon orders or warrants properly signed by the city manager;

(e) Perform such other duties as may be prescribed by the city manager or the Kansas statutes.

(K.S.A. 10-803; K.S.A. 12-1608; Code 1975, 1-325:331; Code 1991)

1-307. CITY ATTORNEY; OFFICE; DUTIES. There is hereby established the office of city attorney. The city attorney shall be appointed by the city manager. 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 city governing body when so directed to attend by the governing body;

(b) Advise the city 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 city 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, the city manager and the Kansas statutes.

(Code 1991)

1-308. CITY ENGINEER. The city engineer shall be a licensed professional engineer in the State of Kansas. He or she shall be responsible for duties assigned by the city manager as from time to time are appropriate. (Code 1991)

1-309. CITY MANAGER. The administration of the city's business shall be in the hands of a city manager. (K.S.A. 12-1024; Code 1975, 1-201)

- 1-310. APPOINTMENT; TERM; QUALIFICATION. Annually on the anniversary date of the hiring of the city manager, the governing body shall review the appointment of the city manager. He or she shall hold office at the pleasure of the governing body. The governing body may, at its discretion, delay appointment of the city manager until the third meeting of the governing body following the anniversary date. The city manager in office shall continue in office until his or her successor is appointed. Whenever a vacancy occurs by virtue of dismissal, resignation, death or disqualification, the governing body shall immediately appoint another city manager. The city manager shall be chosen solely upon the basis of administrative ability and the choice shall not be limited by any resident qualifications. (K.S.A. 12-1024, 12-1025; Code 1975, 1-202; Code 1991)
- 1-311. SALARY; BOND. The city manager shall receive a salary to be fixed by the governing body and shall give a bond for the faithful performance of his or her duties in such amount as may be required by the city. (K.S.A. 12-1024, 12-1025; Code 1975, 1-203)
- 1-312. DUTIES OF CITY MANAGER. The city manager shall appoint a municipal judge, city treasurer and city attorney, as well as the heads of the various departments of the city as hereafter designated. The city manager shall be responsible for the enforcement of the laws and ordinances and for the proper discharge of the duties of the respective city administrative officers and employees. He or she shall have the power to appoint and remove all nonelective heads of departments, officers and employees of the city and will undertake any other ministerial acts assigned to him or her by the governing body. The city manager may perform the duties of the head of any city department for which duties he or she is qualified, as deemed appropriate by the current job description. He or she may designate one person to be the head of one or more departments or offices of the city except where the duties of such offices would be incompatible. He or she shall be responsible for discipline of all appointive officers and may, without notice, cause the affairs of any department or the conduct or accounts of any officer or employee to be examined. He or she shall prepare or cause the preparation of the annual budget to be submitted to the governing body for its approval. He or she may make recommendation to the governing body on all matters concerning the welfare of the city and shall have a seat, but not a vote, in all public meetings of the governing body. (Code 1975, 1-204; Code 2010)
- 1-313. COUNTERSIGN WARRANTS. The city manager shall countersign all warrants or warrant checks issued by the city clerk. (Code 1975, 1-208)
- 1-314. PAYROLL DEDUCTIONS. The city manager is authorized and directed to make arrangements for deductions from payroll for all or part of the cost of group health, accident and/or life insurance plans and other deductions for community or united funds. (Code 1975, 1-209; Code 1991)

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 regulations the document entitled "Uniform Personnel Rules and Regulations for the City of Augusta." No fewer than three copies of said document shall be marked or stamped "Official Copy as adopted by the Code of the City of Augusta" 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 1991)

ARTICLE 5. OATHS AND BONDS

1-501. OATH; AFFIRMATION. All safety officers and governing body members 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.

All other employees of the City must sign a written oath before entering upon the duties of their position.
(K.S.A. 75-4308, 54-104, 54-106; Code 2010)

1-502. OATHS FILED. All safety officers and governing body members 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 with the city clerk. (Code 1975, 1-402; Code 1991; Code 2010)

1-503. BONDS REQUIRED. (a) Before taking office or assuming the duties of an employee of the city, the officers and employees of the city hereinafter named and any other officer or employee who has access to city funds or property of a valuable nature shall furnish unto the city a bond conditioned upon the faithful performance of all duties of this office or employment and such bonds shall be in at least the following amounts for the following offices:

- (1) City Manager, minimum - \$15,000.
- (2) City Clerk, minimum - \$15,000.
- (3) City Treasurer, minimum - \$15,000.
- (4) Municipal Judge, minimum - \$2,000.
- (5) Director of Public Safety, minimum - \$2,000.
- (6) Each Utility Collection Clerk - \$5,000.
- (7) Treasurer of Firemen's Relief Association - \$25,000.
- (8) Faithful performance of Duty for Governing Body, limit \$15,000.

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

Provided, that such bonds shall be executed by responsible bonding company authorized to do business in the State of Kansas, be payable to and for the use and benefit for the city, in the minimum sum herein above specified or such other amounts in excess thereof as the governing body from time to time may determine by motion or resolution as necessary.

(Code 1975, 1-403; Code 1991)

1-504. SAME; PREMIUMS. All premiums on surety bonds shall be paid by the city. (K.S.A. 78-111; Code 1991)

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 1975, 1-405; Code 1991)

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 1975, 1-404; Code 1991)

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 1991)
- 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 2010)
- 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 2010)
- 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 1991, 1-603)

1-605. FACILITIES FOR PUBLIC INSPECTION. All city offices keeping and maintaining open public records shall provide suitable facilities to be used by any person desiring to inspect and/or copy an open public record. The office of the city clerk, being the principal recordkeeper 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 1991, 1-604)

1-606. PROCEDURES FOR INSPECTION. Any person requesting access to an open public record for purposes of inspecting or copying such record, or obtaining a copy thereof, shall abide by the procedures adopted by the governing body for record inspection and copying, including those procedures established by record custodians as authorized by the governing body. Such procedures shall be posted in each city office keeping and maintaining open public records. (Code 1991, 1-605)

1-607. APPOINTMENT OF OFFICIAL CUSTODIANS. The following city officers are hereby appointed as official custodians for purposes of the Kansas Open Records Act and are hereby charged with responsibility for compliance with that Act with respect to the hereinafter listed public records:

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

(b) City Treasurer - All public records not on file in the office of the city clerk and kept and maintained in the city treasurer's office.

(c) Director of Public Safety- All public records not on file in the office of the city clerk and kept and maintained in the city public safety department.

(d) 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.

(e) 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 2010)

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 2010)

1-609. DESIGNATION OF ADDITIONAL RECORD CUSTODIANS. (a) Each of the official custodians appointed in section 1-607 is hereby authorized to designate any subordinate officers or employees to serve as record custodian. Such record custodians shall have such duties and powers as are set out in the Kansas Open Records Act.

(b) Whenever an official custodian shall appoint another person as a record custodian he or she shall notify the city clerk of such designation and the city clerk shall maintain a register of all such designations.
(Code 1991, 1-607)

1-610. REQUESTS TO BE DIRECTED TO CUSTODIANS. 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 City Clerk who will forward the requests to the custodian charged with responsibility for the maintenance of the record sought to be inspected or copied.
(Code 1991, 1-609; Code 2010)

1-611. FEE ADMINISTRATION. The city clerk is hereby authorized to provide the clerk's office, and the office of each record custodian, with sufficient cash to enable the making of change for record fee purposes. Each custodian shall transmit all record fee moneys collected to the city treasurer not less than monthly. Each custodian shall maintain duplicates of all records and copy request forms, completed as to the amount of fee charged and collected, which amounts shall be periodically audited by the clerk-finance officer and treasurer of the city. (Code 1991, 1-610)

1-612. INSPECTION FEE. (a) Where a request has been made for inspection of any open public record which is readily available to the record custodian, there shall be no inspection fee charged to the requester.
(b) In all cases not covered by subsection (a) of this section, a record inspection fee shall be charged.
(Code 1991, 1-611)

1-613. 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 1991, 1-613)

1-614. 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 1991, 1-614)

ARTICLE 7. INVESTMENT OF PUBLIC 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 1991)

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 Butler 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 Butler 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 2010)

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 2010)

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 in which the City of Augusta 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 thereunder has an office located in the city and such financial institution will make such deposits available to the city at interest rates equal to or greater than the investment rate, as defined in 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 2010)

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 1991, 1-703)

1-706. CUSTODY AND SAFEKEEPING. Securities purchased pursuant to this article shall be under the care of the city clerk, city treasurer and city manager 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 2010)

1-707. SALE OR TRANSFER. If, in order to maintain sufficient moneys on demand deposit in any fund as provided in 1-705, it becomes necessary to transfer or sell any securities of such funds, the officers specified in 1-706 may transfer said securities to any other fund or funds in which there are temporarily idle moneys, or shall sell such securities, and for such purpose they shall have authority to make any necessary written direction, endorsement or assignment for and on behalf of the city. (Code 2010)

1-708. INTEREST ON TIME DEPOSITS. The city clerk shall deposit the interest on invested idle funds as required or authorized by law. (Code 2010)

ARTICLE 8. LIBRARY BOARD

1-801. LIBRARY BOARD. The mayor shall appoint, with the approval of the city council, a library board for the city. The library board shall consist of seven members in the manner and for terms as provided by law. The mayor shall be ex officio a member of such board with the same powers as appointed members, but no person holding any city office shall be appointed a member of such board while holding such office. All members appointed to the library board shall be residents of the city. Vacancies occasioned by removal from the city, resignation or otherwise shall be filled by appointment for the unexpired term. No person who has been appointed to the library board for two consecutive four year terms shall be eligible for further appointment to such board until two years after expiration of the second term. Members of the library board shall receive no compensation for their services as such but shall be allowed their actual and necessary expenses in attending meetings and in carrying out their duties as members. (Code 1975, 1-901)

1-802. LIBRARY EMPLOYEE BENEFITS CONTRIBUTION FUND. (a) The City of Augusta, in accordance with the provisions in K.S.A. 12-16, 102, as amended, does hereby establish a Library Employee Benefits Contribution Fund for the purpose of paying the Augusta Public Library's share of employee benefits prescribed herein after.

(b) The cost of employee benefits authorized for payment from the fund created by part (1) of this section shall include the following: Employer contributions for Social Security, Medicare, Worker's Compensation, Unemployment Insurance, health care costs, employee benefit plans and employee retirement and pension programs. (Ord. 1752; Code 2010)

ARTICLE 9. OLD CITY RECORDS

1-901.

DESTRUCTION OF CERTAIN RECORDS. (a) The officers and employees of the city charged with the custody or having in their custody the following records, documents or other papers may destroy the same after they have been on file for the period stated:

- (1) Claims and any purchase orders attached thereto, five years.
- (2) Warrants or warrant checks, whether originals or duplicates, that have been paid, five years.
- (3) Duplicates of receipts or stubs of receipts issued, three years.
- (4) Duplicates of utility bills sent to customers, three years.
- (5) Bookkeeping or accounting records of utility customer's accounts, three years, except that the period for the records of deposits to guarantee the payment of bills or the return of meters shall begin when the account is closed or the customer ceases to receive service.
- (6) Duplicates or stubs of licenses issued for license fees or taxes, three years.
- (7) Bonds of officers or employees, 10 years, the period to begin at the termination of the term of the bond.
- (8) Insurance policies, five years, the period beginning at expiration of the policy unless a claim is pending.
- (9) Canceled checks, five years.
- (10) Requisition and duplicate purchase orders, three years.
- (11) Bonds and coupons, if any, stamped paid or canceled and returned by the fiscal agent, five years, the period beginning at the date of maturity of the bond or coupon. One bond of each issue shall be retained permanently or shall be offered to the state historical society.

(b) The original of records, documents or other papers listed in subsection (a) may be destroyed at any time if reproduced on film, as provided in K.S.A. 12-122, and amendments thereto, and such film shall be retained for a period not less than required for the original records.

(K.S.A. Supp. 12-120; Code 1975, 1-1001; Code 1991)

1-902.

RECORDS TO BE PRESERVED. Nothing in section 1-1001 of this article shall be deemed to apply to records, documents or papers not specifically mentioned nor to authorize the destruction of records, documents or papers which in their nature should be preserved permanently, nor to prohibit destruction of records, documents or papers obviously of only temporary value after a reasonable time. (K.S.A. 12-121; Code 1975, 1-1002)

ARTICLE 10. ADMINISTRATIVE DEPARTMENTS

1-1001. ADMINISTRATIVE DEPARTMENTS. The affairs and administrative functions of the city shall be divided into departments, the city manager having full power and authority to appoint or employ any department head or employee within each and every department, except that when the business of the city, in the discretion of the city manager, does not require the employment of persons in any department, he or she may dispense with such department or employees therein, until such time, as, in his or her discretion, a need exists for such department or employees.

ARTICLE 11. EMERGENCY MANAGEMENT

1-1101. EMERGENCY MANAGEMENT. The director of public safety of the public safety department shall be the emergency management director of the city and shall act in this capacity pursuant to all applicable state statutes and city ordinances. (Code 1991)

ARTICLE 12. PUBLIC BUILDING COMMISSION

1-1201. FORMATION. (a) The City, by appropriate ordinance, may create a public building commission for the purposes of acquiring a site or sites for and constructing, reconstructing, equipping and furnishing, or purchasing or otherwise acquiring, a building or buildings or other facilities of a revenue producing character. Such building or buildings or facilities shall be maintained and operated for (i) a county courthouse, (ii) the housing and accommodation of county offices or county business, (iii) city offices, (iv) independent living facilities for senior citizens, or (v) such other purposes as are commonly carried on in connection with such facilities or in county courthouses and general city buildings, including administrative offices for school districts and housing, accommodations and parking facilities for offices of state and federal agencies.

(b) A public building commission created by the City may acquire land and facilities adjacent to or near any educational institution under the supervision and control of the state board of regents or may acquire by lease, land and facilities constituting a part of the campus of any such institution. Any public building commission may construct, reconstruct, equip and furnish such facilities on such land and lease such land and facilities to the official governing body of such institution. Any such lease entered into shall pledge the net revenue from such land and facilities. The City also may pledge such funds as may be necessary from those which are provided to be paid over to the board of trustees from the annual tax levy as provided by K.S.A. 76-3a07, and amendments thereto. The governing body of the City is hereby authorized to designate any surplus from such tax levy as may be necessary to guarantee the rentals under any such lease, and the City is hereby exempted from the provisions of K.S.A. 101101 to 10-1122, inclusive, and 79-2925, and amendments thereto, to the extent necessary to enable the City to make a covenant to effect such guarantee.

(c) A public building commission authorized under this *Charter Ordinance* and K.S.A.12-1757 et seq. shall have the power to do all things necessary or incidental to the purpose of constructing or acquiring or enlarging, furnishing and operating and maintaining buildings or facilities to be made available for use by governmental agencies. and non-profit corporations organized under the laws of this state.

1-1202. BONDING. (a) Any revenue bonds proposed to be issued by a public building commission created by the City shall be issued as provided in K.S.A. 104201 et seq. and amendments thereto, except to the extent that such statutes are in conflict with this article or K.S.A. 12-1757 et seq. Before any revenue bonds are authorized or issued under the provisions of this article and K.S.A. 12-1757 et seq., the public building commission shall adopt a resolution specifying the amount of such bonds and the purpose of the issuance thereof.

(b)(1) Except as otherwise provided in subsection (b) (2) of this section the resolution shall provide that if within 30 days after the last date of publication of the resolution a petition in opposition to the resolution, signed by not less than 5% of the electors of the City or by not less than 5% of the electors of the county or school district if the lease is with such entity, is filed with the county election officer, the board of county commissioners shall submit the question to the voters at an election called for that purpose or at the next general election. Except as

otherwise provided in subsection (b) (2) of this section, such resolution shall be published once a week for two consecutive weeks in the official city newspaper or in a newspaper having general circulation in the county if the lease is with a county or school district.

(2) Notwithstanding the provisions of subsection (b) (1) of this Section, a resolution of a public building commission adopted within one year from the date of this Charter Ordinance authorizing the issuance of revenue bonds to finance the acquisition of an independent living facility for senior citizens, shall be published once in the official City newspaper and shall not be subject to petition in opposition of the resolution.

(c) No construction contract shall be let or approved by a public building commission until after the expiration of the protest period provided under this section, provided that, with respect to revenue bonds authorized by a resolution described in subsection (b)(2) of this Section, the public building commission may let or approve a construction contract upon publication of such resolution once in the official City newspaper. (Code 2010)

CHAPTER II. ANIMAL CONTROL AND REGULATION

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

ARTICLE 1. GENERAL PROVISIONS

2-101.

DEFINITIONS. For the purposes of this chapter, the following words and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(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) Animals - 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 Control Officer - means any person employed by, contracted with or appointed by the City for the purpose of aiding in the enforcement of this law, or any other law or ordinance relating to the licensing or permitting of animals, control of animals or seizure and impoundment of animals, and includes any state, county or municipal public safety officer, dog warden, constable or other employee, whose duties in whole or in part include assignments which involve the seizure or taking into custody of any animal.

(d) 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.

(e) At-Large. - An animal shall be deemed to be at-large if off the premises of its owner and not under the immediate responsive control of a responsible person.

(f) Attack - means violent or aggressive physical contact with a person or domestic animal or violent or aggressive behavior that confines the movement of a person, but not limited to, cornering or circling a person.

(g) 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.

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

(i) Dangerous Dogs - means any dog which is known to its keeper or harborer, or reasonably should be known to its keeper or harborer, to have a propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals. It is hereby declared to be the policy of this city that keepers and harborers of dogs that are of a size and breed that allow the animal to be capable of inflicting life threatening

injuries upon human beings are held to a very high standard of care regarding their knowledge of such propensity, tendency or disposition as to their animal and to confine and restrict movement of such animals. In determining whether or not a keeper or harbinger of such an animal should know reasonably about such propensities, tendencies or dispositions the municipal court shall apply a very high standard. The following breeds shall be presumed to be dangerous animals and all provisions shall apply to their care and confinement:

- (1) The Staffordshire Bull Terrier breed of dogs;
 - (2) The American Staffordshire Terrier breed of dogs;
 - (3) The American Pit Bull Terrier breed of dogs;
 - (4) The Rottweiler breed of dogs;
 - (5) The Wolf hybrid or Tundra Shepherd breed of dogs;
 - (6) Any dog that has the appearance and characteristics of being predominantly of the breeds of dogs known as Staffordshire Bull Terrier, American Staffordshire Terrier, American Pit Bull Terrier, Rottweiler, Wolf Hybrid or Tundra Shepherd;
 - (7) Any dog kept or harbored primarily, or in part, for the purpose of dog fighting, or any dog trained for dog fighting; or any dog not owned by a governmental or law enforcement unit used primarily to guard public or private property.
- (j) Dog - means any member of the species canis familiaris, regardless of sex.
- (k) Euthanize - means the humane destruction of an animal, which includes, but is not limited to, the proper injection of a substance that quickly and painlessly terminates the life of an animal or by any of those methods provided in K.S.A. 47-1718.
- (l) Exotic Animal - means those animals not indigenous to North America and animals of any species, the majority of whose population is feral.
- (m) 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.
- (n) Harbor - means any person who shall allow any animals to habitually remain, 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.
- (o) 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.
- (p) Immediate Control - means the regulation and supervision by a competent person so that an animal is unable to run or get loose at will.
- (q) Kennel - means any establishment, commercial or otherwise, maintained for breeding, rearing, grooming, boarding, or otherwise harboring in an enclosure in one location only, more than three dogs, three cats, or more than a combination of three dogs and cats.
- (r) Livestock - includes, but is not limited to cattle, horses, goats, sheep or other animals commonly regarded or used as farm or ranch animals.
- (s) Neutered - means any male or female cat or dog that has been permanently rendered sterile.
- (t) 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.

(u) 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 the subsection above.

(v) Person(s) - means any individual, firm, association, joint stock company, syndicate, partnership or corporation.

(w) Shelter - means all pens, houses, or fenced enclosures, where animals are confined, such as, but not limited to, hutches, cotes, lofts, kennels, warrens, feed lots, barns, stables, or other buildings or enclosures.

(x) 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.

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

(z) Vicious Animals - means 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 any animal which attacks a human being or domestic animal without provocation; any animal owned or harbored primarily or in part for the purpose of fighting or any animal trained for fighting; 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 public safety officer while such officer is engaged in the performance of official duty.

(Ord. 1893, Sec. 1; Code 1991)

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 Director of Public Safety 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 Director of Public Safety.

(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 public safety officer or the animal control officer may issue a citation to the owner, harborer or keeper of an animal in violation of this chapter, and the person receiving the citation shall, appear in the municipal court of the city to answer the charged violation of this chapter.

(d) It is unlawful for any person to:

(1) Refuse to identify himself or herself and provide verification of his/her correct name, address, date of birth and any other information reasonably necessary to correctly identify such person when asked to do so by animal control or public safety officer when the officer has probable cause to believe that this person when asked to do so by animal control or public safety officer when the officer has probable cause to believe that this person has violated a section of this article.

(2) Interfere with, molest, injure or prevent the animal control or law enforcement officer in the lawful discharge of their duties.
(Code 1991)

2-103. SAME; CAPTURE/DESTRUCTION. When deemed necessary by public safety 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 property 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 1991)

2-104. SAME; RIGHT OF ENTRY; UNLAWFUL INTERFERENCE. (a) The animal control officer or any public safety 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 1991)

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.

(d) Facilities for the humane destruction of animals.
(Code 1991)

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.

(Ord. 1467, Sec. 1; Code 1991)

2-107.

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.

(Ord. 1469, Sec. 1; Code 1991)

2-108.

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 1991)

2-109.

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.

(f) By loud, frequent or habitual barking, howling, yelping or other noise or action, unreasonably disturbs any person or neighborhood within the corporate limits of the city. 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/she fails to do so, the city may abate it by taking up, impounding and/or disposing of the animal(s) at the expense of the owner.

If a summons is issued charging a violation of this provision, a subpoena shall also be issued to the complainant to testify to the nuisance under oath. (Ord. 1467, Sec. 1; Code 1991)

2-110. 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) All premises on which animals are kept shall be subject to inspection by the animal control officer, duly authorized public safety 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.

(f) Animal Enclosure Regulations. No person shall as owner, lessee or occupant, maintain any pen or other enclosure where any animals are kept closer than 25 feet to the dwelling house of another, or shall permit the same to remain uncleaned to the annoyance of any citizen of the city.
(Ord. 1467, Sec. 1; Code 1991)

2-111. 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.

(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 1991)

2-112. DEATH OF ANIMALS. (a) 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.

(b) In the event the animal control officer or a public safety officer disposes of the animal, the City shall be reimbursed for all cost incurred in the process. (K.S.A. 47-1201; Code 1991)

2-113. 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) 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.

(c) Impoundment, muzzling and/or confinement of animal. 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 harbinger 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 public safety 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. (Ord. 1467, Sec. 1; Code 1991)

- 2-114. DANGEROUS DOGS; PROHIBITED. It shall be unlawful for any person or legal entity to keep, harbor or in any way possess a dangerous dog as defined by this article within the limits of the City of Augusta, Kansas. (Ord. 1893, Sec. 2; Code 2010)
- 2-115. EXISTING DOGS; EXCEPTION. Any dogs described and defined as dangerous by this article which reside within the City of Augusta, Kansas, at the time of the effective date of this ordinance and shall have registered with the City prior to the effective date, shall be allowed to remain in the City, subject to the provisions of this article. Any dangerous dog which fails to register by the effective date of this ordinance shall be removed from the City. If any dangerous dog which remains in the City under this exception is found to be at large more than once, it shall be removed from the City or destroyed. (Ord. 1893, Sec. 3; Code 2010)
- 2-116. SAME; CONFINEMENT. Any person who keeps or harbors a dangerous dog under the exception to this article shall keep such dog confined as required in this Section. Any such dogs shall be confined indoors by secure methods or in a securely enclosed and locked pen or dog run made of at least nine-gauge chain link with no more than 2" spacing. Such pen or dog run area must have sides at least six feet high and be secured over the top with the same material provided for the sides of the pen. Such pen or dog run area shall have a bottom incapable of being penetrated by the dog and secure to the sides of the pen which must be imbedded into the ground no less than one foot. Such pen and dog run shall be locked with a key or combination lock whenever such dog or dogs are within the pen or dog run. Allowing a dangerous dog to run free in an enclosed back yard is strictly prohibited. All other dangerous dogs must be confined indoors or within a secure fence at least 6ft. in height and constructed so that the dog cannot dig under the fence nor climb over the fence. Any gate to the fence must be locked with a key or combination lock at all times the dangerous dog is allowed to run free within the fence. All dangerous dogs which are allowed to run free within the fence must be muzzled and such muzzle shall allow the dog to drink but not bite. (Ord. 1893, Sec. 4; Code 2010)
- 2-117. SAME; LEASH AND MUZZLE. Any person keeping or harboring a dangerous dog shall at any time the dog is not confined, have such dog securely restrained by a leash with a minimum tensile strength of 300 pounds and not exceeding three feet in length. Any person walking a dangerous dog or restraining such a dog on a leash shall be an adult and be of sufficient strength to control said dog. No person shall attempt to walk or restrain more than one (1) dangerous dog at a time. All dogs defined by this ordinance as dangerous shall be muzzled when outside of confinement by a device sufficient to prevent the dog from biting people or other animals. (Ord. 1893, Sec. 5; Code 2010)
- 2-118. SAME; SPAY; NEUTER. Any dangerous dog confined and harbored within the confines of the City of Augusta and which dog is more than six months of age must be spayed or neutered within 30 days of the effective date of this ordinance or becoming six months of age. (Ord. 1893, Sec. 6; Code 2010)

- 2-119. SAME; TETHER PROHIBITED. Any person who harbors, owns or keeps a dangerous dog is prohibited from placing such dog on a tether, rope or chain which is attached to a tree or any other immovable object. (Ord. 1893, Sec. 7; Code 2010)
- 2-120. REGISTRATION. Within 30 days of the effective date of this ordinance, each owner, keeper, harborer or possessor of a dangerous dog shall register such dog with the City Clerk. For each dangerous dog harbored and kept at a residence there shall be an initial registration fee of \$50.00 per dog for the first year and an annual renewal fee of \$25.00 per dog. At the time of registration the owner, keeper or harborer of such dog must present two color photographs of such dog, clearly showing the color and approximate size of the animal giving a side and front view. The registration of such dog shall include the address, name, if any, of the animal, and its breed. In such time as the animal is removed from the City, relocated within the City, or such dog dies, this information must be given to the City Clerk within 10 days of the occurrence to correct the rolls of registration. (Ord. 1896, Sec. 1; Code 2010)
- 2-121. INSURANCE. All owners, keepers or harborers of dangerous dogs within the city must, within 30 days of the effective date of this article, provide proof to the City Clerk of public liability insurance in a single incident amount of \$100,000 for bodily injury to or death of any person or persons and for damage to property owned by such persons which may result from the ownership, keeping or maintenance of such animal. At the time of initial registration of such animals the owner, keeper or harborer must present proof to the City Clerk of the required insurance or at any other time thereafter when demanded by the City Clerk. Such liability insurance shall provide that there shall be no cancellation of the policy without first giving ten (10) days written notice of the cancellation to the City Clerk. (Ord. 1893, Sec. 9; Code 2010)
- 2-122. PENALTIES. Any person or legal entity found to be in violation of the provisions of this article, upon conviction, may be fined no less than \$100.00 nor more than \$500.00 for the first conviction and no less than \$100.00 nor more than \$1,000.00 for each subsequent conviction and/or confined for a period of up to six months. In addition to the above penalties the court may prescribe for the violation of this section, if the court finds, after notice to the keeper and harborer and an opportunity for hearing, that such dangerous dog represents a continuing threat of serious harm to human beings or other domestic animals, the Court may order such animal destroyed. Each day a violation of any provision of this ordinance occurs is considered a separate offense. (Ord. 1893, Sec. 10; Code 2010)
- 2-123. MISCELLANEOUS. (a) Any violation of this article shall make the dangerous dog involved in the violation subject to impoundment by the Department of Public Safety. Any dog that is impounded, after a hearing before the Municipal Judge, may be euthanized by order of the Court.
(b) Any dog impounded under this article, which is eligible to be returned to the owner, shall be returned to the owner only after payment of boarding fees and other incidental charges incurred during the impoundment of the animal. Failure to

pay fees and charges and obtain the release within 48 hours shall make the animal subject to destruction.

(c) If a dog is impounded under this ordinance as a dog prohibited within the City, the owner shall have 48 hours to remove the dog from the City permanently. Failure to remove the dog shall make the animal subject to destruction.
(Ord. 1896, Sec. 2; Code 2010)

2-124. RUNNING AT LARGE; FINE. (a) It shall be unlawful for any person to willfully allow any animal or fowl under his or her control to be or to run at large within the city. Any animal or fowl found at large shall be impounded as provided in section 2-117 or 2-207 (dogs).

(b) The owner of any dog or cat impounded for running at large without the tag as required by this chapter shall be fined in any sum not less than \$20.00 nor more than \$100.00 for the first offense and any sum not less than \$30.00 nor more than \$200.00 for the second offense, and any sum not less than \$40.00 nor more than \$300.00 for any subsequent offenses.

(c) Dogs must be secured by a leash, unless they are in a vehicle or within the property limits of the owner or harbinger. If unconfined on the property, the dog must be under control of a responsible person and must be obedient to that person's voice commands; or the property should have adequate fencing or an electronic fencing system and operating components. If an electronic fence is utilized, the animal must be equipped with the necessary equipment required to keep the animal confined.

(Ord. 1469, Sec. 1; Code 1991)

2-125. IMPOUNDMENT; FEE; NOTICE; RECORD. (a) The animal control officer or public safety officer shall impound any animal or fowl found at large in the city 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 plus the actual cost of feeding and maintaining the animal while impounded.

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

(d) The animal control officer shall submit a report each month 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 1991)

2-126. 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 2-113 (vicious) and 2-127 (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 1991)

2-127. IMPOUNDMENT OF RABIES SUSPECTS. (a) Any public safety officer or animal control 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 animal control officer shall determine whether or not such animal is suffering from a disease and, if not, the animal control officer shall authorize the release of the animal upon payment by the owner of the boarding fee therefore. The animal control 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 animal control 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 in the city for observation. Such veterinarian shall report his or her findings in writing to the animal control officer. If in the opinion of such veterinarian a microscopic examination is justified, then the animal shall be turned over to the animal control officer or any public safety officer to be killed and examination made by the state board of health.

(c) Any animal desired for observation by the animal control officer under this section shall be delivered to the animal control officer or any public safety 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.

(Ord. 1467, Sec. 1; Code 1991)

2-128. 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 Department of Public Safety. 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 animal control 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 1991)

2-129. 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 public safety officer. (Code 1991)

2-130. 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 public safety officer, or the animal control officer of the city. The owner of such animal shall be prosecuted for such violation thereof. (Ord. 1467, Sec. 1; Code 1991)

2-131. MUZZLING. Whenever the mayor shall deem it necessary for the protection and welfare of the inhabitants of the city, he/she shall issue an order requiring all dogs or cats 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 2010)

2-132. KENNELS; PERMIT REQUIREMENTS. Any person maintaining or operating a kennel within the city must obtain a permit as herein provided. Written application shall be made to the city clerk or his or her designated agent, which shall include name and address of applicant, description, sex and type of all animals kept or harbored on one premises for a period of longer than three months during the permit period. Permits will not be required for veterinary hospitals, animal clinics or public animal shelters. (Ord. 1467, Sec. 1)

2-133. PERMIT PERIOD AND ISSUANCE. (a) Permit period shall begin January 1 and end December 31 of the same year. Applications for permits may be made 30 days prior to and up to 60 days after the beginning of the permit period. Upon receipt of the permit application, the city clerk shall direct the animal control officer to inspect the premises, enclosures and/or equipment of the applicant for compliance with provisions of this chapter and other applicable laws. Following approval by the animal control officer and payment of the applicable fee hereinafter set out, a permit shall be issued.

(b) Annual Permit Fees:

(1) Class 1 Kennel (authorized to house less than eight dogs or cats or combination of either) - \$20.00;

(2) Class 2 Kennel (authorized to house eight or more dogs or cats or combination of either) - \$50.00.

(c) Any kennel existing prior to the adoption of these provisions shall be allowed to continue in operation until discontinued by the owner at the time of adoption of these provisions. Such privileges shall not be transferable to a subsequent owner. The fees for such pre-existing kennels shall remain the same as in effect prior to the adoption of these provisions.

(Ord. 1467, Sec. 1)

2-134. KENNELS REGULATED. Any person(s) operating a kennel within the city shall comply with all other sections of this chapter, including but not limited to, animals at large; licensing requirements; and cruelty to animals. Provided, kennels may only be located in those areas as the zoning ordinances of the city allow kennels to be maintained. (Ord. 1467, Sec. 1)

2-135. REVOCATION. The city clerk may revoke a permit or license if the person holding such permit or license refuses or fails to comply with this chapter or any law governing the protection and keeping of animals. Any person whose permit or license is revoked shall, within 10 days thereafter, humanely dispose of all animals owned, kept or harbored by such person and no part of the permit or license fee shall be refunded. No person who has been convicted of cruelty to animals shall be issued a kennel permit. Any person having been denied a permit may not re-apply for a period of 30 days. Each re-application shall be accompanied by a \$5 fee. (Ord. 1467, Sec. 1)

2-136. ANIMAL WASTE. The owner of every animal shall be responsible for the removal of any excreta deposited by his or her animal on public right-of-way, recreation areas or private property. The owner of any animal shall not allow animal waste to gather and remain on the premises of the owner in such quantities which create unsanitary conditions or objectionable odors. (Ord. 1467, Sec. 1)

ARTICLE 2. DOGS AND CATS

2-201. REGISTRATION AND VACCINATION REQUIRED; FEE. (a) Every owner of any dog or cat 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 or cat owned and kept within the city. It shall be unlawful for the owner of any newly acquired dog or cat or any dog or cat brought into the city to fail to register such animal within 30 days from acquisition or bringing the dog or cat into the city. It shall be unlawful for the owner of any previously registered dog or cat to fail to maintain current registration of such dog or cat.

(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 or cat over six months of age to fail to maintain effective rabies immunization of such dog or cat.

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

(d) The city clerk shall collect an annual registration fee of \$5.00 for each neutered or spayed dog or cat, and \$5.00 for each unneutered or unspayed dog or cat.

(e) The registration shall be valid for one year from the date of registration; provided that, vaccination may not be required if the owner of such dog or cat shall exhibit a statement from a veterinarian certifying that such vaccination would be injurious to such dog or cat due to its health.

(Ord. 1714, Sec. 1; Code 2010)

2-202. DOG OR CAT 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 or cats, 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 or cat a certificate in writing, stating that the person has registered the dog or cat and the number by which the dog or cat is registered, and shall also deliver to the owner or keeper of the dog or cat 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 or cat so registered. When any tag has become lost during a registration period, the owner of the dog or cat 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 \$2.00 fee. It shall be unlawful for any person to take off or remove the city registration tag from any dog or cat belonging to another, or remove the strap or collar on which the same is fastened. (Ord. 1467, Sec. 1; Code 1991)

- 2-203. SAME; COUNTERFEIT TAG. It shall be unlawful for any person to place on any dog or cat a tag issued for any other dog or cat or to make or use any false, forged or counterfeited tag or imitation thereof. (Ord. 1467, Sec. 1; Code 1991)
- 2-204. EVIDENCE OF VACCINATION. It shall be unlawful for the owner of any dog or cat 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 or cat within two years, when requested by the animal control officer or any public safety officer. (Ord. 1467, Sec. 1; Code 1991)
- 2-205. EXCEPTIONS; VISITING DOGS OR CATS; SEEING EYE DOGS. (a) The provisions of this article with respect to registration shall not apply to any dog or cat owned by any person visiting or temporarily remaining within the city for less than 30 days. However, such dogs or cats shall be kept under restraint by the owner thereof at all times.
- (b) License fees shall not be required for seeing eye dogs or governmental public safety dogs.
- (c) Assistance dogs that are listed as Dangerous Dogs, do not apply to the exceptions in this section. The dangerous dogs listed in section 2-101 are illegal within the city limits, and sections 2-114 to 2-123 will still be in effect. (Ord. 1467, Sec. 1; Code 1991)
- 2-206. IMPOUNDMENT; RECORD; NOTICE; REDEMPTION; MINIMUM FEE.
- (a) Any dog or cat found in violation of the provisions of this article shall be subject to impoundment by the city.
- (b) A record of all dogs or cats 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 or cat impounded has a current registration tag attached to its collar or if the impounding officer knows the identity of the dog or cat's owner, the owner of such dog or cat, 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 or cat is disposed of by destruction or sale. If, at the end of five days the city clerk has been unable to locate the owner, or the owner, upon having been located, refuses to claim or redeem said the dog or cat, then the dog or cat may be sold, euthanized or otherwise disposed of.
- (d) If the dog or cat impounded has no current registration tag and the identity of the animal's owner is unknown to the animal control officer or the impounding public safety officer then such impounding officer shall, upon taking any such animal into custody and impounding the same, make a record thereof, with a description of the animal and the date and place taken into custody and the place of impounding, and shall thereupon immediately post a public notice stating that the animal, describing the same with the date and place of taking, has been taken up, and that unless the charges of impounding the same, together with any license fees due and unpaid, are paid within three business days from the date of the notice, that the animal will be disposed of as provided in this code. If within three full business days the owner does not appear to claim the dog or cat, then the dog or cat may be sold, euthanized or otherwise disposed of.

(e) If at any time before the sale or destruction of any dog or cat impounded under the provisions of this article, the owner of an impounded dog or cat does appear and redeem the dog or cat, 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 upon compliance with the registration provisions of this article. This subsection shall not apply to any dog or cat alleged as being vicious under section 2-113 or suspected of rabies under section 2-127 of this code.

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

(g) 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.

(h) The redemption of any dog or cat 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 or cat.

(Ord. 1467, Sec. 1; Code 1991)

2-207. DISPOSITION OF UNCLAIMED DOGS OR CATS. (a) Unclaimed dog or cat is destroyed. If any dog or cat is not redeemed by its owner or harborer within the time allowed for redemption as specified in section 2-206 thereof, the animal control officer, any authorized public safety officer, any authorized veterinarian or any duly authorized pound personnel may destroy such dog or cat or sell the same for the costs of impoundment and keeping, plus any registration fee due for the current year.

(b) Adoption of Unclaimed Dogs or Cats. Any person who desires to adopt an animal remaining unclaimed after the three day holding period shall pay the current claim and boarding fee as established in section 2-206, and in addition shall comply with section 2-201, concerning obtaining a current license for the adopted animal.

(Ord. 1467, Sec. 1; Code 1991)

2-208. CONFINEMENT OF DOGS OR CATS IN HEAT. Any unspayed female dog or cat 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 cat or dogs or cats 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. (Ord. 1467, Sec. 1; Code 1991)

2-209. IMPOUNDING ANIMALS WITHOUT LICENSES. It shall be the duty of the public safety officers of the city, or the animal control officer or designated agent, to take into custody and impound all dogs or cats found in the city, not provided

with or wearing a current license tag or other approved identification, as provided in section 2-201 of this article. (Ord. 1714, Sec. 2; Code 2010)

2-210. LIMITS ON DOGS AND CATS. Within the city limits of Augusta, Kansas, each household is allowed to maintain no more than three dogs, three cats, or no more than a combination of three dogs and cats. (Code 2010)

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) Crocadians, 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) Foxes.
- (15) Game cocks and other fighting birds.
- (16) Hippopotami.
- (17) Hyenas.
- (18) Iguanas.
- (19) Jaguars.
- (20) Leopards.
- (21) Lions.
- (22) Lynxes.
- (23) Monkeys.
- (24) Ostriches.
- (25) Pumas; also known as cougars, mountain lions and panthers.
- (26) Raccoons.
- (27) Rhinoceroses.
- (28) Skunks.
- (29) Tigers.
- (30) Wolves.

(c) The prohibitions of this section shall not apply to bona fide 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.

(Ord. 1467, Sec. 1; Code 1991, 2-301)

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.
(Ord. 1562, Art. 1, Sec. 1; Ord. 1567, Sec. 1; Code 1991)

3-102. RESTRICTION ON LOCATION. (a) No alcoholic liquor shall be sold or served by a person holding a license or permit from the city whose place of business or other premises are located within 200 feet of any church or school the distance to be measured from the nearest property line of such church or school to the nearest portion of the building occupied by the premises.

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

(c) No license or permit shall be issued for the sale of alcoholic liquor if the building or use does not meet the zoning ordinance requirements of the city or conflicts with other city laws, including building and health codes.
(Ord. 1562, Art. 1, Sec. 2; Code 1991)

3-103. MINORS ON PREMISES. (a) It shall be unlawful for any person under the age of 21 years to remain on any premises where the sale of alcoholic liquor is licensed for on-premises consumption, or where a caterer or temporary permit holder is serving alcoholic liquor.

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

(c) This section shall not apply if the person under the age of 21 years is accompanied by his or her parent or guardian, or if the licensed or permitted premises derives not more than 50 percent of its gross receipts in each calendar year from the sale of alcoholic liquor for on-premises consumption.
(Ord. 1562, Art. 1, Sec. 3; Code 1991)

3-104. CONSUMPTION ON PUBLIC PROPERTY. No person shall drink or consume any alcoholic liquor or cereal malt beverage on city owned public property. (K.S.A. Supp. 41-719; Ord. 1784; Sec. 1; Code 2010)

- 3-105. PUBLIC SALE; CONSUMPTION. (a) It shall be unlawful for any person to sell, serve or dispense any cereal malt beverage or alcoholic beverage in any public place not licensed to sell, serve or dispense such beverage at such public place within or under the jurisdiction of the city.
- (b) It shall be unlawful for any person to drink or consume any cereal malt beverage or alcoholic beverage in any public place not licensed to sell and serve such beverage for public consumption at such public place within or under the jurisdiction of the city.
- (c) For purposes of this section, the term "public place" shall include upon any street, public thoroughfare, public parking lot or any privately owned parking area made available to the public generally, within any parked or driven motor vehicle situated in any of the aforesaid places or upon any property owned by the state or any governmental subdivision thereof unless such property is leased to others under K.S.A. 12-1740 et seq. if the property is being used for hotel or motel purposes or purposes incidental thereto or is owned or operated by an airport authority created pursuant to Chapter 27 of the Kansas Statutes Annotated. (K.S.A. 41-719; Code 1991)
- 3-106. LICENSE REVOCATION. If an alcoholic liquor licensee has violated any of the provisions of this chapter, or the Kansas Liquor Control Act, the governing body of the city, upon five days' written notice to the person holding such license to sell alcoholic liquor, may permanently revoke or cause to be suspended for a period of not more than 30 days such license and the individual holding the license may be charged in municipal court with a violation of the alcoholic liquor laws of the city. (Code 1991, 3-111; Code 2010)
- 3-107. IMMEDIATE ENTRY. The right of immediate entry to and inspection of any premises licensed as a club or drinking establishment or any premises where alcoholic liquor is sold by a holder of a temporary permit, or any premises subject to the control of any licensee or temporary permit holder, by any duly authorized officer or agent of the director, or by any law enforcement officer, shall be a condition on which every license or temporary permit is issued, and the application for, and acceptance of, any license or temporary permit shall conclusively be deemed to be the consent of the applicant and licensee or permit holder to such immediate entry and inspection. Such right of immediate entry and inspection shall be at any time when the premises are occupied and is not limited to hours when the club or drinking establishment is open for business. Such consent shall not be revocable during the term of the license or temporary permit. Refusal of such entry shall be grounds for revocation of the license or temporary permit. (K.S.A. 41-2613; Code 2010)

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; Ord. 1563, Sec. 1; Code 1991)

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;

(f) Each application for a general retailer's license shall be accompanied by a certificate from the city inspector certifying that he or she has inspected the premises to be licensed and that the same comply with the provisions of chapter 8 of this code.

(g) Each application for a general retailer's license must be accompanied by a certificate from the director of safety certifying that he or she has inspected the premises to be licensed and that the same comply with the provisions of chapter 7 of this code.

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 director of safety of the city for investigation of the applicant. It shall be the duty of the director of safety to investigate such applicant to determine whether he or she is qualified as a licensee under the provisions of this chapter. The director of safety shall report to the city manager not later than five working days subsequent to the receipt of such application. The application shall be scheduled for consideration by the governing body at the earliest meeting consistent with current notification requirements.

(Ord. 1563, Sec. 2; Code 1991; Code 2010)

- 3-202A. LICENSE APPLICATION PROCEDURES. (a) All applications for a new and renewed cereal malt beverage license shall be submitted to the city clerk 10 days in advance of the governing body meeting at which they will be considered.
- (b) The city clerk's office shall notify the applicant of an existing license 30 days in advance of its expiration.
- (c) The clerk's office shall provide copies of all applications to the department of public safety when they are received. The department of public safety will run a records check on all applicants and the department of public safety will inspect the premises in accord with Fire Prevention and Health and Building codes. The department will then recommend approval, or disapproval, of applications within five working days of the department's receipt of the application.
- (d) The governing body may not consider any application for a new or renewed license that has not been submitted 10 days in advance and been reviewed by the above city departments.
- (e) An applicant who has not had a cereal malt beverage license in the city shall attend the governing body meeting when the application for a new license will be considered.
- (f) The City Council shall have the authority to waive the 10-day period set forth in subsection (a) when good and sufficient reasons exist to do so and proper review of the application has been completed by the appropriate City departments. (Ord. 1563, Sec. 3; Code 1991; Code 2010)
- 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. (Ord. 1563, Sec. 4; Code 1991)
- 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. (Ord. 1563, Sec. 5; Code 1991)
- 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 Butler 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, drunkenness, 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 citizenship and residency requirements.

(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.

(j) A person whose spouse has been convicted of a felony or other crime which would disqualify a person from licensure under this section and such felony or other crime was committed during the time that the spouse held a license under K.S.A. 41-2701, et. seq.

(Ord. 1563, Sec. 6; Code 1991; Code 2010)

3-206.

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

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

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

(d) The distance limitation of subsection (b) above shall not apply to any establishment holding a cereal malt beverage license issued by the city when the licensee has petitioned for and received a waiver of the distance limitation. The governing body shall grant such a waiver only following public notice and hearing. (K.S.A. 41-2704; Ord. 1563, Sec. 7; Code 1991)

3-207.

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

(a) General Retailer - for each place of business selling cereal malt beverages at retail, \$100.00 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.

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

(K.S.A. 41-2702; Ord. 1563, Sec. 8; Code 1991)

3-208. SUSPENSION OF LICENSE. The director of public safety, 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. (Ord. 1563, Sec. 9; Code 1991)

3-209. 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; Ord. 1563, Sec. 10; Code 1991)

3-210. SAME; APPEAL. The licensee, within 20 days after the order of the governing body revoking any license, may appeal to the district court of Butler 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; Ord. 1563, Sec. 11; Code 1991)

- 3-211. CHANGE OF LOCATION. If a licensee desires to change the location of his or her place of business, he or she shall make an application to the governing body showing the same information relating to the proposed location as in the case of an original application. Such application shall be accompanied by a fee of \$25.00 plus \$25.00 State Revenue stamp fee for Limited Retailers. If the application is in proper form and the location is not in a prohibited zone and all other requirements relating to such place of business are met, a new license shall be issued for the new location for the balance of the year for which a current license is held by the licensee. (Ord. 1563, Sec. 12; Code 1991)
- 3-212. WHOLESALERS AND/OR DISTRIBUTORS. It shall be unlawful for any wholesaler and/or distributor, his, her or its agents or employees, to sell and/or deliver cereal malt beverages within the city, to persons authorized under this article to sell the same within this city unless such wholesaler and/or distributor has first secured a license from the director of revenue, state commission of revenue and taxation of the State of Kansas authorizing such sales. (K.S.A. 41-307:307a; Ord. 1563, Sec. 13; Code 1991)
- 3-213. 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), 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 12:00 a.m., and 6:00 a.m., or in a place of business which is licensed to sell cereal malt beverage for consumption on the premises, which derives not less than 30 percent of its gross receipts from the sale of food for consumption on the licensed premises, closing hours for clubs shall conform to K.S.A. 41-2614 and 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 21 years of age.

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

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

(k) No licensee shall employ any person who has been judged guilty of a felony.

(Ord. 1679, Sec. 1; Code 2010)

3-214. PROHIBITED CONDUCT ON PREMISES. The following conduct by a cereal malt beverage licensee, manager or employee of any licensed cereal malt beverage establishment is deemed contrary to public welfare and is prohibited:

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

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

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

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

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

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

(e) Using or permitting any person to use on the licensed premises, any artificial devices or inanimate objects to depict any of the acts prohibited by 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, club, or drinking 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 1991)

3-215. SANITARY CONDITIONS REQUIRED. All parts of the licensed premises including furnishings and equipment shall be kept clean and in a sanitary

condition, free from flies, rodents and vermin at all times. The licensed premises shall have at least one restroom for each sex easily accessible at all times to its patrons and employees. The restroom shall be equipped with at least one lavatory with hot and cold running water, be well lighted, and be furnished at all times with paper towels or other mechanical means of drying hands and face. Each restroom shall be provided with adequate toilet facilities which shall be of sanitary design and readily cleanable. The doors of all toilet rooms shall be self closing and toilet paper at all times shall be provided. Easily cleanable receptacles shall be provided for waste material and such receptacles in toilet rooms for women shall be covered. The restrooms shall at all times be kept in a sanitary condition and free of offensive odors and shall be at all times subject to inspection by the city inspector. (Ord. 1563, Sec. 15; Code 1991; Code 2010)

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.
(Ord. 1567, Sec. 3; Code 1991)
- 3-302. OCCUPATIONAL TAX. (a) 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 10 days after any renewal of a state license.
- (b) Alcoholic liquor distributor's license for the first and each additional distributing place of business operated in the city by the same licensee and wholesaling and jobbing alcoholic liquors, except beer - \$300.00.
- (c) Beer distributor's license, for the first and each additional wholesale distributing place of business operated in the city by the same licensee and wholesaling or jobbing beer containing more than 3.2 percent of alcohol by weight - \$50.00.
(Ord. 1567, Sec. 2; Code 1991)
- 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. (Ord. 1567, Sec. 3; Code 1991)
- 3-304. HOURS OF SALE. No person shall sell at retail any alcoholic liquor:
- (a) On any Sunday;
- (b) On Decoration Day or Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day;
- (d) Before 9:00 a.m. or after 11:00 p.m. on any day when the sale thereof is permitted.
(K.S.A. 41-712; Ord. 1679, Sec. 1; Code 2010)
- 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;

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

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

(f) Sell, give away, dispose of, exchange or deliver, or permit the sale, gift or procuring of any alcoholic liquor to or for any person under 21 years of age.
(Ord. 1567, Sec. 5; Code 1991)

3-306.

RESTRICTIONS ON LOCATION. (a) No person shall knowingly or unknowingly sell, give away, furnish, dispose of, procure, exchange or deliver, or permit the selling, giving away, furnishing, disposing of, procuring, exchanging or delivering of any alcoholic beverage in any building, structure or premises, for consumption in such building or upon such premises if such consumption is within 200 feet from the nearest property line of any school or church, the distance to be measured from the nearest property line of such church or school to the nearest portion of the building occupied by the premises.

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

(c) no license or permit shall be issued for the sale of alcoholic liquor if the building or use does not meet the zoning requirements of the city or conflicts with other city laws, including building and health codes.
(K.S.A. 41-710; Code 1991)

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. (Ord. 1562, Art. 3; Sec. 1; Code 1991)
- 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 \$250.00.
- (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. 1569, Sec. 1; Code 1991)
- 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. (Ord. 1562, Art. 3, Sec. 3; Code 1991)

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. (Ord. 1562, Art. 2; Sec. 1; Code 1991)

3-502. LICENSE FEE. (a) There is hereby levied an annual license fee in the amount of \$250.00 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. 1562, Art. 2, Sec. 2; Code 1991)

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.

(Ord. 1562, Art. 2, Sec. 2; Code 1991)

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. (Ord. 1562, Art. 4, Sec. 1; Code 1991)
- 3-602. LICENSE FEE. (a) There is hereby levied an annual license fee in the amount of \$250.00 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.
(Ord. 1562, Art. 4, Sec. 2; Code 1991)
- 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 9:00 a.m. on any day. (Ord. 1562, Art. 4, Sec. 3; Code 1991)
- 3-604. NOTICE TO DIRECTOR OF PUBLIC SAFETY DEPARTMENT. 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 director of public safety 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. (Ord. 1562, Art. 4, Sec. 4; Code 1991)

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. (Ord. 1562, Art. 5, Sec. 1; Code 1991)
- 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.
(Ord. 1562, Art. 5, Sec. 2; Code 1991)
- 3-703. CITY TEMPORARY PERMIT. (a) It shall be unlawful for any person to conduct an event under a state issued temporary permit without first applying for a local temporary permit at least seven days before the event. Written application for the local temporary permit shall be made to the city clerk and shall clearly state:
(1) the name of the applicant;
(2) the group for which the event is planned;
(3) the location of the event;
(4) the date and time of the event;
(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.
(Ord. 1562, Art. 5, Sec. 3; Code 1991)
- 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. (Ord. 1562, Art. 5, Sec. 4; Code 1991)

CHAPTER IV. BUILDINGS AND CONSTRUCTION

- Article 1. Administrative Code
- Article 2. Building Code
 - Building Standards
 - Dwelling Construction Under the Building Code
 - Guidelines for Manufactured Housing Installations
- Article 3. Electrical Code
- Article 4. Plumbing Code
- Article 5. Mechanical Code
- Article 6. Housing Code
- Article 7. Landscaping and Urban Forestry Code
- Article 8. Numbering Buildings
- Article 9. Moving Buildings
- Article 10. Dangerous and Unfit Structures
- Article 11. International Private Disposal Code
- Article 12. International Fuel Gas Code
- Article 13. International Property Maintenance Code

ARTICLE 1. ADMINISTRATIVE CODE

4-101.

INTERNATIONAL BUILDING CODE INCORPORATED. (a) The code known as the International Building Code, 2003 Edition, with Appendix Chapters C, E, F, G, H and I, recommended by the International Code Council, Incorporated, is hereby incorporated by reference herein and made a part of this article, save and except such portions as are hereinafter or may hereafter be deleted or amended, as authorized and in the manner prescribed by the statutes of the State of Kansas.

(b) Section 1007 of Chapter 10 of the International Existing Building Code, 2003, as adopted by the City of Augusta, shall be amended by adding the following subsections as follows:

(1) 1007.12 Canopies/Awnings. Canopies/awnings shall reflect historic character, shall be fabricated of modern cloth material, may have a fixed metal frame, or a historic flexible frame that can be rolled in or out. Projection shall be a minimum of 2' and a maximum of 8'. Existing flat metal awnings directly above the storefront may be retained if a modern cloth valance or skirt is added to the face of the metal awning.

(2) 1007.13 Historic Colors. Historic colors- All new building exterior paint colors and awning colors shall be based on historic colors as developed by various paint manufacturers, such as Sherwin Williams "Victorian Color Chart" colors.

(c) Section 1008 of Chapter 10 (Existing Construction) of the International Existing Building Code, 2003, as adopted by the City of Augusta, shall be amended by changing the following subsections as follows:

(1) 1008 Signs. Historically, signs used in the designated main street area were relatively simple. They varied in size and location, but most were basic painted panels with simple lettering types. Others were painted directly on the building wall. If it was illuminated, an indirect light source was typical. These general features of sign design shall be continued.

(2) 1008.3.1. Flush-mounted wall signs may be considered. Maximum 2" projection from wall measured front-to-back of sign.

(3) 1008.5.4 The use of plastic on the exterior of a sign shall be considered only when it is compatible with the surrounding architecture and that architecture is no longer judged to be historic by the Main Street Design Committee.

(Ord. 1868, Sec. 1A; Code 2010)

4-102. DELETIONS. The International building Code, incorporated by reference in 4-101 herein shall have the following sections deleted:

(a) Section 101.4.7 Energy.

(b) Section 105.2; Item 2; Fences.

(c) Section 105.2; Item 6; Sidewalks & Driveways.

(d) Section 105.7; Placement of Permit and Section

(e) 109.3.5 Lath or gypsum board inspection shall be deleted in their entirety.

(f) Section 109.3.7; Energy Efficiency Inspections.

(Ord. 1820; Ord. 1868; Code 2010)

4-103. AMENDMENTS. The International Building Code, Incorporated by reference in 4-101 herein shall have the following section amended:

(a) Section 101.4.1 shall be amended to read National Electrical Code, 1999 Edition.

(b) Designated Main Street Area. The designated Main Street area shall be encompassed by the following boundaries: on the north by the old railroad right of way; on the south by Second Avenue; on the west by the north-south alley between Walnut Street and State Street; and on the east by School Street.

(c) Permit For Work Within Main Street Area. Any application for a building permit for work within the designated Main Street area shall contain a detailed scope of work showing all proposed alterations and changes. Upon receipt of such an application, the Building Official shall submit the application to the Main Street Design Committee of the City for review.

(d) Review of Application. The Main Street Design Committee shall review the application to determine if the proposed work complies with the building code regulations which apply to the Main Street area. Within fifteen days of the receipt of said application, the committee shall submit to the Building Official a written summary of their review containing their proposed changes and alterations of the scope of work, if any. The scope of work within the application shall be amended by the applicant to comply with the written summary of the Main Street Design Committee.

(e) Issuance of Permit. The building permit may be issued only after the Building Official finds the scope of work complies with the recommendations of the Main Street Design Committee.

(f) Section 106.5 Retention of Construction Documents. Shall be amended to read: "One set of approved construction documents shall be retained by the code official until such construction receives its final inspection and an occupancy permit is issued. The construction documents shall be forwarded to the Fire Department or the owner of the building at the determination of the Fire Chief."

(g) Designated Main Street Area. The designated Main Street area shall be encompassed by the following boundaries: on the north by the old railroad right of way; on the south by Second Avenue; on the west by the north-south alley between Walnut Street and State Street; and on the east by School Street.

(h) Permit For Work Within Main Street Area. Any application for a building permit for work within the designated Main Street area shall contain a detailed scope of work showing all proposed alterations and changes. Upon receipt of such an application, the Building Official shall submit the application to the Main Street Design Committee of the City for review.

(i) Review of Application. The Main Street Design Committee shall review the application to determine if the proposed work complies with the building code regulations which apply to the Main Street area. Within fifteen days of the receipt of said application, the committee shall submit to the Building Official a written summary of their review containing their proposed changes and alterations of the scope of work, if any. The scope of work within the application shall be amended by the applicant to comply with the written summary of the Main Street Design Committee.

(j) Issuance of Permit. The building permit may be issued only after the Building Official finds the scope of work complies with the recommendations of the Main Street Design Committee.

(Ord. 1928; Ord. 1868; Code 2010)

4-104. ADDITIONS. The International Building Code, Incorporated by reference in Section 4-101 herein shall have the following additions:

(a) Section 102.7 LOCATION OF USED STRUCTURES PROHIBITED. No person, firm or corporation shall transport, ship, haul or move any used or previously occupied building, shed, duplex, residence or any other type of used structure onto any lot in any subdivision to the City of Augusta, except that such prohibition shall not apply to any area which is zoned Industrial District.

(b) Section 102.7.1 REMOVAL OF STRUCTURE. If determined by the Building Official that a prohibited structure has been illegally located in violation of this section, then notice shall be given to the owner of the lot and the contractor responsible for placing the structure on the lot giving each of them a reasonable time, not to exceed thirty (30) days, to remove the structure. If the parties notified shall fail to act within the specified period, then the City shall have the right to cause the structure to be removed. The City shall have the further right to recover the cost of removal from either party in a court of competent jurisdiction.

(c) Section 102.8 MOVING BUILDINGS. All applications to move a building, house, derrick or other structure shall specify the day and hour said moving is to commence and the route through the city streets over which the building, house, 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.

(d) Section 102.9 DEMOLITION AND CONSTRUCTION WASTE. The occupant of each premises and/or contractor of a construction or demolition project shall collect and remove or arrange for the collection and removal of all demolition and construction waste produced on such premises or in relation to a demolition or construction project. Demolition and construction waste shall be collected and removed on a continuing basis as produced on the premises or in relation to a demolition construction project. In no case shall such waste remain on the premises or in relation to demolition or construction project for a period longer than thirty days. All demolition and construction waste collected shall be covered prior to disposal. Such demolition and construction waste shall be disposed of at a licensed solid waste processing or licensed disposal facility.

(e) Section 105.3.3 PERMIT ISSUING. Permits shall be issued to authorized licensed contractors and home owners working under Section 116.8. Section 105.3.4 WORKING UNDER PERMIT. No person shall allow any other person to do or cause to be done any work under a permit secured by a contractor except personnel in his/her employ. Home owners may not obtain a permit under Section 116 and hire any individual, company, firm or corporation to do the actual work.

Section 105.3.5 CONTRACTOR WORKING UNDER PERMIT. The General, Building or Residential Contractor is permitted to obtain the plumbing, electrical and mechanical permits as well as the building permit before start of construction. The Inspection Department will mail a copy of the permit to the appropriate sub-contractor. The General, Building or Residential Contractor is responsible for the notification to the Inspection Department should the subcontractor be changed for any reason. The subcontractor shall contact the Inspection Department and request inspections. The Building Official may refuse to accept a General, Building or Residential Contractor from purchasing the sub-contractor's permits for failure to comply with the provisions of this article.

(f) Section 108.1.1 CONTRACTOR PAYING PERMIT FEES. The General, Building or Residential Contractor may pay the permit fees for plumbing, electrical and mechanical permits when applying for the permits under Section 105.3.3.

(g) Section 108.2 SCHEDULE OF PERMIT FEES. Section 108.2.1 BUILDING PERMIT FEES. Building Valuation Data shall be determined by (1) the Contractor's Bid Price, or (2) the Building Valuation Data Tables, based on the April 2000 Valuation rounded to the nearest whole dollar based on (.01 to .49 shall be rounded down and .50 to .99 shall be rounded up) printed in the "Building Standards" magazine published by the International Conference of Building Officials, 5360 Workman Mill Road, Whittier, California 90601-2298. The charges and fees for permits shall be established from time to time by Resolution of the Governing Body of the City of Augusta, Kansas.

(h) Section 112.4 BOARD OF APPEALS. The Board of Appeals shall consist of five (5) members, appointed by the Mayor of the City of Augusta, Kansas. The Board shall consist of the Senior Electrician, Plumber, Mechanic and building/Residential Contractor of the Building Trades Board; plus one (1) licensed Architect, Structural Engineer or Public Engineer and one (1) licensed Real Estate Agent. Such appointment shall be made before the first day of May, every three years. The Board of Appeals shall use the guidelines set fourth in the

various international codes as adopted by the City relating to the general topics of Building, Plumbing, Electrical, Mechanical and Property Maintenance. The Board shall meet on call of the Building Official. The Board shall appoint one (1) of its members to be Secretary of the Board.

(i) Section 113.4.1 PENALTIES. Any person, firm or corporation violating or failing to comply with the provisions of this code, the technical codes or ordinances provided for in Chapter IV of the City Code, shall be fined in Municipal Court a sum:

First Conviction - not less than \$50 nor more than \$100

Second Conviction - not less than \$100 nor more than \$300

Each Subsequent Conviction - not less than \$300 nor more than \$500 and/or be confined for a period not to exceed ten (10) days and/or have his/her contractor license suspended for a period of thirty (30) to one hundred eighty (180) days.

Section 113.4.2 COURT BOND. The Municipal Court Bond shall be the maximum amount listed for each conviction and has been set by the Municipal Court Judge. The Inspection Department shall keep a record of all court cases and convictions.

(j) Section 116. BOARD OF BUILDING TRADES. There is hereby established in this jurisdiction a Board of Building Trades consisting of nine (9) members appointed by the Mayor of the City of Augusta, Kansas. Such appointments shall be made before the first day of May, every three (3) years. The Board shall include one (1) City Council Member who shall be the President of the Board; three members of the Board shall be a licensed Master Plumbing Contractor, a licensed Master Electrical Contractor and a licensed Master Mechanical Contractor; three members of the Board shall be either a Master or Journeyman Plumbing Contractor, Electrical Contractor and Mechanical Contractor; one (1) member shall be a licensed Building Contractor and one (1) member shall be either a licensed Building or Residential Contractor. The Inspection Department shall act as Secretary to the Board and have custody of its records.

The Board shall meet on call of the President or the Building Official.

(k) Section 116.1 POWERS AND DUTIES OF THE BOARD OF BUILDING TRADES.

Section 116.1.1 The Board is authorized to review and make recommendations to the Governing Body concerning the City Codes of building, plumbing, electrical, mechanical, housing and other related codes and ordinances.

Section 116.1.2 The Board is authorized to formulate City Policies concerning the building trades and model codes as adopted by the City upon review by the Governing Body.

Section 116.1.3 The Board shall set the qualifications required for an individual to take the State of Kansas Trade Examinations.

Section 116.1.4 The Board is authorized to review and make recommendations to the Governing Body concerning the examination fees and licensing fees.

Section 116.1.5 The Board is authorized to conduct public hearings concerning trade licensing removal and make recommendations to the Governing

Body concerning an individual's or company's violation of the codes, rules, regulations, policies and ordinances.

(l) Section 116.2 POLICIES. All City Policies concerning the building trades shall be in effect after approval of the Governing Body and having been published once in the official city newspaper. The Inspection Department shall mail a copy of all new policies to each licensed individual contractor. The Inspection Department shall keep an official record of all City Policies and make the same available to the general public during regular business hours.

(m) Section 116.3 BUILDING TRADES LICENSES REQUIRED. Any person, firm, or corporation desiring to engage in or work at the business of Electrical, Plumbing, Mechanical (Heating and Air Conditioning and/or Refrigeration), Building, Siding, Roofing, Fencing, Swimming Pool Installer, Building Mover or Lawn Sprinkler Installer shall be required to obtain the proper license from the City of Augusta prior to engaging in such work and/or business.

(n) Section 116.3.1 LICENSE TYPES. There is hereby created the following categories of Licenses required by the City of Augusta, Kansas:

Section 116.3.1.1 MASTER ELECTRICIAN. A person who is qualified, licensed and equipped to properly lay out and plan the installation, repair and maintenance of electrical systems.

Section 116.3.1.2 JOURNEYMAN ELECTRICIAN. A person who is qualified, licensed and equipped to properly install and repair electrical systems, for and under the direction of a qualified Master Electrician.

Section 116.3.1.3 HELPER ELECTRICIAN. A person who is eighteen (18) years or older who is licensed to learn the electrical trade under the direct supervision of a Journeyman or Master Electrician.

Section 116.3.1.4 MASTER PLUMBER. A person who is qualified, licensed and equipped to properly lay out and plan the installation, repair and maintenance of plumbing systems.

Section 116.3.1.5 JOURNEYMAN PLUMBER. A person who is qualified, licensed and equipped to properly install and repair plumbing systems under the direction of a qualified Master Plumber.

Section 116.3.1.6 HELPER PLUMBER. A person who is eighteen (18) years or older who is licensed to learn the plumbing trade under the direct supervision of a Journeyman or Master Plumber.

Section 116.3.1.7 MASTER MECHANICAL SPECIALIST. A person who is qualified, licensed and equipped to properly lay out and plan the installation, repair and maintenance of Heating, Air Conditioning and Refrigeration systems.

Section 116.3.1.8 JOURNEYMAN MECHANICAL SPECIALIST. A person who is qualified, licensed and equipped to properly install and repair Heating, Air Conditioning and Refrigeration systems.

Section 116.3.1.9 HELPER MECHANICAL SPECIALIST. A person who is eighteen (18) years or older who is licensed to learn the mechanical trade under the direct supervision of a Journeyman or Master Mechanical Specialist.

Section 116.3.1.10 GENERAL BUILDING CONTRACTOR. A person who is qualified, licensed and equipped to build, construct, alter, repair, add to, remodel or wreck any building or structure, or any portion thereof, for which a permit is required and unlimited in scope, including high rise construction.

Section 116.3.1.11 BUILDING CONTRACTOR. A person who is qualified, licensed and equipped to build, construct, alter, repair, add to, remodel or wreck

any building or structure, or any portion thereof, for which a permit is required. Limited to commercial, industrial, residential building, not to exceed three (3) stories in height.

Section 116.3.1.12 RESIDENTIAL CONTRACTOR. A person who is qualified, licensed and equipped to build, construct, alter, repair, add to, remodel or wreck any residential building or structure, or any portion thereof for which a permit is required. Limited to one-, two- and three-family residential buildings not exceeding two (2) stories in height.

NOTE: General, Building and Residential Contractors are not required to obtain the following separate types of contractor licenses; except for the House Moving Contractor's License. The work allowed by these licenses is understood to be included as part of the General, Building and Residential Contractor's License.

Section 116.3.1.13 FENCE CONTRACTOR. A person who is qualified, licensed and equipped to build, construct, alter, repair, add to or wreck any fence for which a permit is required. A Fence Contractor must successfully complete a Fence Contractor's Examination provided by the Inspection Department that covers the fence regulations.

Section 116.3.1.14 ROOFING CONTRACTOR. A person who is qualified, licensed and equipped to install, repair and replace roof covering. Work may include, but not limited to, roof deck insulation, roof coating, painting and covering, including use of sheet metal and installation of other sheet metal products incidental to roofing work.

Section 116.3.1.15 SWIMMING POOL CONTRACTOR. A person who is qualified, licensed and equipped to install, repair and replace swimming pools, including the pumps, pool heater, solar pool heaters, filter, chlorinators and that piping incidental to the recirculating system and concrete slab work.

Section 116.3.1.16 HOUSE MOVING CONTRACTOR. A person who is qualified, licensed and equipped to move, haul or transport any house, building, derrick, or other structure of the height, when loaded for movement, of sixteen (16) feet or more from the surface of the highway, road, street or alley, or a width of eight (8) feet or more or which cannot be moved at a speed of four (4) miles per hour or faster, upon, across or over any street, alley or sidewalk. No examination is required to obtain the House Moving Contractor's License.

Section 116.3.1.17 LAWN SPRINKLER CONTRACTOR. A person who is qualified, licensed and equipped to lay out, design, install, test and repair lawn sprinkler systems. Including, but not limited to, piping, low voltage electrical system and back flow installation. A lawn sprinkler contractor must have successfully completed the State Certification for Backflow Prevention and Testing of Backflow Devices.

(o) Section 116.3.2 CONTRACTOR LICENSE AND EXAMINATION FEES. The charges and fees for Contractor Licenses and Examination Fees shall be established from time to time by Resolution of the Governing Body of the City of Augusta, Kansas.

(p) Section 116.3.3 LICENSE EXPIRATION. All trade licenses shall be valid for a period of one year from the date the license was issued. Failure to renew a license after one hundred eighty (180) days shall require a review by the Board of Building Trades. The Board may require the individual license holder to take the State Examination (if not holding a State Certificate) or ICBO Building Contractor's Examination for that trade and/or double the license fee. Any

contractor who does not have the State Certification will have to have the back flow prevention device tested and certified by a licensed contractor who has the State Certification. Any contractor who does not have the State Certification as provided in section 116.4.3 shall have the back flow prevention device tested and certified by a licensed contractor with the State Certification.

(q) Section 116.4 BUILDING TRADES EXAMINATIONS REQUIRED. All building trades licenses shall require testing by a nationally recognized testing agency or major jurisdiction acceptable to the Inspection Department.

Section 116.4.1 BLOCK STATE EXAMINATION AND CERTIFICATION. Master and Journeymen Electrical, Plumbing and Mechanical (Heating & Air Conditioning) contractors shall have successfully passed the Block State Examination with a minimum score of 75% and received a certification from the sponsoring jurisdiction. EXCEPTION: Those contractors who hold a valid contractor's license do not have to obtain the Block Certification so long as they maintain their license on a yearly basis. Any contractor who fails to maintain their license within one hundred eighty (180) days of the license due date shall be required to either take the Block Certification Examination or appeal to the Building Trades Board to be reinstated.

Section 116.4.2 BLOCK, ICBO OR MAJOR JURISDICTION EXAMINATION. General, Building, Residential, Roofing, Siding, Swimming Pool Installers shall have successfully passed the Block or ICBO State Examination with a minimum score of 75% and received a certification from the sponsoring jurisdiction. The Inspection Department may accept a major jurisdiction's examination based on information concerning the examination given. Individuals may appeal the decision of the Inspection Department if refused a license based on the major jurisdiction's examination. The provisions of this section shall become effective on May 1, 2001. EXCEPTION: Those contractors who hold a valid contractor's license do not have to obtain the Block or ICBO Certification so long as they maintain their license on a yearly basis. Any contractor who fails to maintain their license within one hundred eighty (180) days of the license due date shall be required to either take the Block Certification Examination or appeal to the Building Trades Board to be reinstated.

Section 116.4.3 STATE CERTIFIED BACK FLOW PREVENTION INSTALLER AND TESTER.

Any contractor requesting a Lawn Sprinkler Installer License must have successfully completed the State of Kansas Back Flow Prevention Installer and Testing certification. The provisions of this section shall become effective on May 1, 2001.

EXCEPTION: Those contractors who hold a valid Lawn Sprinkler Installer's contractor's license do not have to obtain the State Certification so long as they maintain their license on a yearly basis. Any contractor who fails to maintain their license within one hundred eighty (180) days of the license due date shall be required to either take the Block Certification Examination or appeal to the Building Trades Board to be reinstated.

Section 116.4.4 FENCE CONTRACTOR'S EXAMINATION AND CERTIFICATION. Any contractor requesting a Fence Contractor's License shall take and successfully complete with a score of not less than 75% an examination provided by the Inspection Department covering the fence regulations adopted by this jurisdiction. The provisions of this section shall become effective on May 1, 2001.

(r) Section 116.5 INSURANCE COVERAGE REQUIRED. Any person, firm or corporation having a contractors license or obtaining a permit as set forth in this section shall maintain a minimum liability insurance coverage of three hundred thousand dollars (\$300,000).

(s) Section 116.6 WORK BY CONTRACTOR.

Section 116.6.1 PERMITS, LICENSES, INSURANCE AND INSPECTIONS. General, Building, Residential, House Moving, Roofing, Siding, Fence, Swimming Pool and Lawn Sprinkler Contractors require one (1) individual be licensed to procure the proper permits from the Inspection Department. The contractor license holder shall be responsible for each project which requires a permit and inspection; to insure that all subcontractors obtain proper licenses and insurance coverage as required by this section, insure to the best of his/her ability that the project complies with all the technical codes and ordinances adopted by the City; and all required inspections are made by the Inspection Department at the proper time of construction.

Section 116.6.2 MASTER LICENSED CONTRACTOR RESPONSIBILITIES. Master Licensed Electrical, Plumbing and Mechanical Specialist shall procure the proper permits from the Inspection Department. The State of Kansas Trade Examination Certification is required to obtain a Master or Journeyman license from this jurisdiction. Helper electrical, plumbing and mechanical licenses are issued without any testing required. The master shall be responsible for each project which requires a permit and inspection; to insure that all employees are properly licensed; that all helpers have direct supervision at all times by either a Master or Journeyman licensed employee; shall inspect all work done by a journeyman and/or helper to insure all work complies with all the technical codes and ordinances adopted by the City; and all required inspections are made by the Inspection Department at the proper time of construction.

Section 116.6.3 CONTRACTORS WORKING TOGETHER ON THE SAME JOB.

Electrical, Plumbing and Mechanical Contractors obtaining permits for companies or individuals not in the direct employment of the contractor and the use of the second companies or individuals subcontractors, journeymen and helper licensed individuals shall be responsible for each project; insuring that all individuals on the job are licensed as Helpers; ensuring the proper permits are obtained from the Inspection Department; all required inspections are made by the Inspection Department; shall be required to be on the project job site during the time of construction or installation of building service equipment; personally inspect the project for compliance with all the technical codes and ordinances adopted by the City; and shall be on the job site when the Inspection Department makes all inspections.

Section 116.6.4 SUBCONTRACTING. Licensed contractors may subcontract certain major jobs which require additional manpower, under the following conditions:

1. Approval by the Building Official shall be required in writing prior to issuing any permits.

2. A Master or Journeyman in his/her employ shall be on the job site at all times.

3. The subcontractor shall obtain journeymen and/or helper licenses as required by the City.

4. The Master contractor shall inspect all work prior to the call for inspection by the Inspection Department.

(t) Section 116.7 WORK BY OWNER OF A SINGLE-FAMILY RESIDENTIAL DWELLING.

Section 116.7.1 PERMITS, INSPECTIONS, EXCEPTIONS AND LIMITATIONS. The owner of a single-family dwelling, who occupies said dwelling shall not be required to pass any examination, obtain any license or post insurance coverage in order to construct, enlarge, alter, repair, improve, convert or perform any work on the dwelling, including such work on the electrical, plumbing, heating and air conditioning and structure contained therein. The owner is required to obtain the proper permits from the Inspection Department. Such permits shall be marked "WORK BY OWNER." The permit shall clearly state and set out all work to be done by the owner and such work shall be inspected by the Inspection Department as is normally required for such work. Inspections made by the Inspection Department shall not exceed what is normally required for said work and any additional inspections required will precipitate an additional charge to the owner. The Inspection Department and it's personnel shall not teach, instruct, design or lay out any work to be done by the owner. All work done by the owner shall comply with the technical codes and ordinances adopted by the City.

Section 116.7.2 EXCEPTIONS to Section 116.6.1. The home owner shall not tap the City Main Sewer Line. The tap of the City Main Sewer Line shall be done by a licensed Master Plumber under a separate plumbing permit. The home owner shall not install the Electrical Service Entrance consisting of the electrical panel, main breaker, meter enclosure, riser and weather head or underground conduit to a pad mount transformer. The service entrance shall be installed by a licensed Master Electrician under a separate electrical permit.

Section 116.7.3 LIMITATIONS. The home owner is permitted to build one (1) single-family dwelling every five (5) years. The home owner is permitted one (1) major electrical wiring project every three (3) years. The home owner is not permitted to hire any individual, firm, company or corporation to accomplish any work under his/her permits. Any work not accomplished by the owner must be by a licensed individual, firm, company or corporation and a separate permit shall be issued by the Inspection Department to cover the scope of the work. No property owner is allowed to build, construct, repair, replace, remodel, add to, or do any work which requires a permit in any dwelling he or she owns, but does not live in, including rental single-, two- or multiple-family dwellings, commercial or industrial buildings and structures. All work accomplished on the above mentioned dwellings, buildings and structures must be done by properly licensed individuals, firms, companies and corporations.

(u) CHAPTER 36 FENCES.

Section 3601 BUILDING PERMIT REQUIRED.

Section 3601.1 A building permit shall be required to install and/or replace an existing fence in the City of Augusta, Kansas. The property owner may obtain the building permit for a fence when he/she is doing the actual construction. A property owner shall not be permitted to obtain a building permit for any fence and hire an unlicensed contractor to install the fence.

Section 3601.2 Building Permit Fees:

The charges and fees for Building permit Fees shall be established from time to time by Resolution of the Governing Body of the City of Augusta, Kansas.

(v) Section 3602 REQUIRED INSPECTIONS.

Section 3602.1 PROPERTY STAKES TO DETERMINE PROPERTY LINES. The Inspection Department may require a licensed survey be made to determine the property lines, when the corner bars cannot be located, or when there is any doubt as to the location of the property line.

Section 3602.2 FINAL INSPECTION. Final inspection on privacy and chain link fences to determine compliance with these regulations.

Section 3602.3 MASONRY FENCES. Masonry fences shall require a footing inspections, wall inspections and drainage openings.

(w) Section 3603 CONSTRUCTION REQUIREMENTS. New and Replacement Fences.

Section 3603.1 DISTANCES FROM PROPERTY LINES. All types of fences shall be constructed adjacent or on the property lines. The Inspection Department may grant an exception based on a plot plan for those fences that are not intended to cover the entire yard. For example, fences around patios and swimming pools. Parallel fences are not permitted unless approved by the Inspection Department and only if the two fences are of different construction materials.

Section 3603.2 CHAIN LINK FENCES. All chain link fences shall be constructed according to the manufacturer's recommendations and instructions. Chain link fences with privacy inserts shall comply with the requirements for wood privacy fences.

Section 3603.3 ELEVATIONS. All wood and chain link privacy fences shall maintain a minimum elevation above grade of three inches. (a three inch distance between the ground [soil] and the bottom of the fence) The fence may have open mesh fencing material to fill in the three inch separation between the bottom of the fence and the ground [soil].

Section 3603.4 PROPERTY PIN PROTECTION. No fence support post shall be installed within two feet of any property pin. No masonry fence shall be installed within two feet of any property pin.

Section 3603.5 SOLID MASONRY FENCES. All solid masonry fences shall have drainage openings approved by the Inspection Department that will permit the passage of storm water. No solid masonry fence shall be installed or constructed on a utility and drainage easement without approval of the Inspection Department and the City Engineer.

Section 3603.6 UTILITY and DRAINAGE EASEMENTS. Wood and chain link privacy fences may be installed or constructed on a utility and drainage easement under the following requirements:

Section 3603.6.1 FENCE CONSTRUCTION BELOW MINIMUM ELEVATIONS. The bottom edge of the fence shall maintain the required three inch elevation above grade (ground) and shall maintain such grade to the property line. The area between the grade and the bottom of the drainage swale shall consist of a minimum two inch lattice work, two inch open chain link, 1/2 inch rebars on two inch centers or one inch nominal treated or fir lumber spaced two inches on center with the edge of the boards facing the drainage swale.

Section 3603.6.2 MAJOR DRAINAGE EASEMENT RESTRICTIONS. No fence shall be constructed in a drainage easement that constricts, diverts, dams or in any way impedes the natural flow of water onto, through or out of any yard or property.

Section 3603.6.3 No fence of any design shall be placed in a Major Drainage Easement. Said fence shall stop at the edge of the drainage easement.

(x) Section 3604 REQUIRED GATES AND REMOVABLE SECTIONS.

Section 3604.1 PERSONNEL GATES. All fences are required to have a personnel gate facing the principal street for the use of City Utility Meter Readers. All fences that do not cross a utility or drainage easement shall be required to install a minimum four foot gate onto the utility or drainage easement.

Section 3604.2 UTILITY and DRAINAGE EASEMENT GATES. All fences that cross a utility or drainage easement shall have gates or removable sections the width of the easement on each side property line. All fences enclosing a utility electrical transformer or manhole shall provide an access gate or lift out section that will provide adequate egress for utility crews.

(y) Section 3605 STAKING REQUIREMENTS.

Section 3605.1 RESPONSIBILITY. It is the contractor's or property owner's responsibility to locate the property pins for the lot prior to staking and calling for an inspection.

Section 3605.2 SURVEY. The Inspection Department may require a lot survey to determine the property corners if they cannot be determined by the contractor or home owner.

(z) Section 3606 REQUIRED SETBACKS AND WORKING CLEARANCES

Section 3606.1 PROPERTY PINS. All fence posts shall maintain a two-foot clearance from all property pins. The Inspection Department may grant permission to construct a fence three inches or higher above a property pin.

Section 3606.2 ELECTRIC TRANSFORMER. All fences shall maintain a three-foot clearance from the sides and back and a four foot clearance from the front of an electric transformer.

Section 3606.3 UTILITY MANHOLE. All fences shall maintain a one-foot clearance from the rim of any utility manhole.

Section 3606.4 BUILDING SETBACK LINES. Privacy fences shall not be constructed past the front building setback line facing the principle street. Privacy fences located on a corner lot may construct the fence to the side property line. Fences located in the front building set back shall not be over three foot in height. Fences may taper from the six foot allowance at the building set back line to three foot at the front property line. No fence shall be constructed that will block any Public or Shared driveway or sidewalk.

(aa) A new appendix "K", entitled New Construction and Signs; Designated Main Street Area, shall be added to the International Building Code and shall read as follows:

APPENDIX K

NEW CONSTRUCTION AND SIGNS; DESIGNATED MAIN STREET AREA

K101 NEW CONSTRUCTION. It is intended this appendix shall set forth design principles for all new construction of buildings and structures of any kind within the designated Main Street area. New buildings and additions to existing buildings, shall be compatible with and promote the historic character of Main Street area. Creativity in design is encouraged so long as it is compatible with the overall design goals of the area. The replication of historic styles, typical for the relative time period of surrounding buildings, is permitted. Interpretations of traditional building of the same era of surrounding buildings, which are similar in scale and overall character, are acceptable.

K102 SITE PLAN. All new construction shall orient the new building on the lot so that the walls of the building are parallel to the lot lines and the front façade of the building faces the street in a manner similar to historic pattern in this area. In addition, the alignment of the front façade shall be on the front lot line as was the practice historically.

K103 MASS AND SCALE. New construction shall appear similar in mass and scale to historic structures found in the designated area. Floor-to-floor heights, especially the first floor height, shall appear to be similar to those seen historically in the block, as seen from the exterior.

K104 ROOF SHAPE. The roof of a new building shall be visually compatible and not contrast greatly with the roof shape and orientation of surrounding building.

K105 WINDOWS. Upper story windows with vertical emphasis are required. Windows should be trimmed with painted wood or other historically compatible material. This trim shall have a dimension similar to that used historically. Window dimensions that are similar to those used traditionally are required. If they are used, the dividing frame elements, or muntins, in a window should be similar in dimension to those used traditionally. Windows on lower floors shall appear to have divided lights. Snap-in muntins, used on both sides of the glass may be considered also. Muntins located between two panes of glass shall not be permitted.

K106 ENTRANCES. New building entrances shall have a similar appearance to those seen historically in the designated area and shall be in scale with the overall façade. The primary entrance shall face the street. Contemporary interpretations of historic building entrances are acceptable, provided they maintain a similar scale and character as historic buildings. Doors shall be rimmed with wood or painted metal. The trim shall be of a dimension similar to that used historically.

K107 LOADING DOCKS AND DOORS. New construction shall incorporate loading docks of a design similar to those of traditional and historic design. Openings from the docks shall be similar in size and depth to loading docks seen in the designated area. Contemporary interpretations of loading dock doors which are similar in scale and character as those seen in the area are acceptable.

K108 MATERIALS. Simple material finishes are mandatory and matte finishes are preferred. Polished stone is not permitted. Materials shall appear similar to those used historically and traditional materials are mandatory. New, state-of-the-art materials may be considered for limited applications. New materials shall have a demonstrated durability in this environment.

K109 SOLID-TO-VOID RATIO. The ratio of window-to-wall shall be similar to that seen traditionally on commercial storefront buildings in the area.

K110 ALIGNMENT OF FAÇADE MATTER. New buildings shall maintain the alignment of horizontal elements along the block, including building cornices. Window sills, moldings and cornices are among those elements that may be seen to align.

K201 SIGNS. Historically, signs used in the designated Main Street area were relatively simple. They varied in size and location, but most were basic painted panels with simple lettering types. Others were painted directly on the building wall. If it was illuminated, an indirect light source was typical. These features of sign design shall be continued.

K202 SIGN CONTEXT. Sign design should consider the building front as a part of overall sign design and integrate façade composition into the sign. Signs should be proportionate to the building so as not to dominate the appearance of the building. A master sign plan should be developed to use for sign design decisions. Signs should be mounted to fit within existing architectural features and be in scale with façade of the building.

K203 PERMITTED SIGNS. The types of signs allowed in the designated Main Street area are as follows:

1. flush mounted
2. pole mounted/monument
3. projecting
4. window
5. directory

K203.1 FLUSH MOUNTED SIGNS. Such signs should be mounted flat to the wall or façade and, when feasible, aligned with other signs on the block. When using decorative mouldings to outline a sign, the sign should fit within the mouldings. In no case should a sign hide or obscure significant architectural features of the façade or wall.

K203.2 POLE MOUNTED SIGNS. A pole mounted or monument sign may be used as long as it does not interfere with movement on a public way. No pole mounted or monument signs shall have an effective area greater than fifteen (15) square feet and not more than fifteen (15) feet in height.

K203.3 PROJECTING SIGNS. A projecting sign should be located near the business entrance and should be located near the business entrance and should be at least eight feet above the sidewalk. Other restrictions and approval may be required by other ordinances of the City if the sign overhangs a public way.

K203.4 WINDOW SIGNS. Signs may be painted on windows provided the sign covers no more than twenty five percent of the glass surface of the window.

K203.5 DIRECTORY SIGNS. Where several businesses share a building, smaller single panel should be aligned into a single arrangement to form a directory. When possible, the signs combined to make a directory should be of a similar background and lettering.

K203.6 INAPPROPRIATE SIGNS. Signs which are out of character with typical signs of the historic period of surrounding buildings shall not be permitted. No sign shall move, rotate, flash or change brightness unless the sign already exists and has historic significance.

K204 SIGN MATERIAL. Signs in the designated Main Street area shall be made of materials which were commonly used during the time period of the surrounding buildings such as painted wood and metal. No unfinished materials including unpainted wood are permitted and no plastic exterior signs are permitted.

K205 SIGN CONTENT. Colors for signs must be compatible with the color scheme of the building. In general, no more than three colors should be used in a sign. Lettering or typeface shall be compatible and in keeping with the historic character of the area. Lettering should not exceed ten inches in height. Hard to read and overly intricate lettering are not permitted. Historic painted signs which exist now shall be preserved.

K206 SIGN LIGHTING. All sign lighting shall be compatible with the historic character of the area and shall originate from an indirect source. The light source shall be directed at the sign from an external shielded lamp. Internal illumination of a sign is not permitted. No sign shall be illuminated by fluorescent lights or backlighting. The use of neon and/or incandescent bulbs is recommended unless an excessive amount of neon lighting becomes visually obtrusive.

(bb) Chapter 1. Administration, Section 101 General, Section 101.9 Restrictions. The use of the International Existing Building Code is restricted to buildings and structures located in Assembly, Commercial and Industrial zoned areas and such building or structure was constructed before 1950.
(Ord. 1820; Ord. 1868; Ord. 1920; Code 2010)

**ARTICLE 2. BUILDING CODE, BUILDING STANDARDS, DWELLING CONSTRUCTION
UNDER THE BUILDING CODE, HOUSING STANDARDS**

- 4-201. INTERNATIONAL RESIDENTIAL CODE INCORPORATED. The code known as the International Residential Code, 2003 Edition, recommended by the International Code Council, Incorporated, is hereby incorporated by reference herein and made a part of this article, save and except such portions as are hereinafter or may hereafter be deleted or amended, as authorized and in the manner prescribed by the statutes of the State of Kansas. (Ord. 1868, Sec. 1B; Code 2010)
- 4-202. AMENDMENTS. The International Residential Code incorporated by reference in section 4-201 herein shall be amended as follows:
- (a) Section 703.2 of Chapter 7 shall be amended to read as follows:
Water-resistive barrier. One layer of No. 15 asphalt felt, free from holes and breaks, complying with ASTM D 226 for Type I felt or other approved water-resistive barrier shall be applied over studs or sheathing of all exterior walls prior to window or door installation. Such felt or material shall be applied horizontally, with the upper layer lapped over the lower layer not less than 2 inches (51 mm). Where joints occur, felt shall be lapped not less than 6 inches (51 mm) material other than felt shall be installed as per manufacturer's directions. The felt or other approved material shall be continuous to the top of walls and terminated at penetrations and building appendages in a manner to meet the requirements of the exterior wall envelope as described in Section R703.1.
- Exception: Omission of the water-resistive barrier is permitted in the following situations:
1. In detached accessory buildings.
 2. Under exterior wall finish materials as permitted in Table R703.4.
 3. Under paperbacked stucco lath when the paper backing is an approved weather-resistive sheathing paper.
- (b) Table R703.4 of Chapter 7 of the International Residential Code, 2003, as adopted by the City of Augusta, shall be amended to read as follows:
Change the Column heading "Sheathing Paper Required" to "Water-Resistive Barrier Required". Remove all "No's" to "Yes's" under this column. Remove all references to "Note g" in the table. Remove "g" under the legend descriptions for this table. (Ord. 1952; Code 2010)
- 4-203. ADDITION. The International Residential Code, 2003 Edition, shall have the following additions:
- (a) Section R108.2 Fee Schedule shall have the following addition at the end of the section, "See the International Building Code, Section 108.2.2."
- (b) Section R112.1 General shall have the following addition at the end of the section, "See the International Building Code, Section 112.4."
- (c) Section R113.4 Violation Penalties shall have the following addition at the end of the section, "See the International Building Code, Section 113.4.1."
- (d) Chapter 44 FENCES. See Chapter 36 FENCES in the International Building Code, 2003 Edition.
(Ord. 1820; Code 2010)

- 4-204. DELETIONS. The International Residential Code, 2003 Edition, incorporated by reference in Section 4-201 shall have the following deletions:
 (a) Section R105.2 Items #2 Fences and #5 Sidewalks and Driveways shall be deleted in its entirety. (Ord. 1820; Code 2010)
- 4-205. DWELLING CONSTRUCTION UNDER THE UNIFORM BUILDING CODE INCORPORATED. That certain uniform code known as the "Dwelling Construction Under the Uniform Building Code, 1991 Edition," recommended by the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601, is hereby incorporated by reference herein and made a part of this article, save and except such portions as are hereinafter or may hereafter be deleted or amended, as authorized and in the manner prescribed by the statutes of the State of Kansas. (Ord. 1629; Code 2010)
- 4-206. DELETIONS. None. (Ord. 1629; Code 2010)
- 4-207. AMENDMENT. None. (Ord. 1629; Code 2010)
- 4-208. ADDITION. None. (Ord. 1629; Code 2010)
- 4-209. GUIDELINES FOR MANUFACTURED HOUSING INSTALLATIONS INCORPORATED. The guideline known as the "Guidelines for Manufactured Housing Installations, 1991 Edition, with Appendix A and B," recommended by the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601, is hereby incorporated by reference herein and made a part of this article save and except such portions as are hereinafter or may hereafter be deleted or amended, as authorized and in the manner prescribed by the statutes of the State of Kansas. (Ord. 1629; Code 2010)
- 4-210. DELETIONS. The Guidelines for Manufactured Housing Installations, incorporated by reference in section 4-209 herein shall have the following sections deleted:
 (a) Section 305(c) INSPECTION RECORD CARD
 (b) Section 503(a) SKIRTING OR PERMANENT PERIMETER ENCLOSURES.
 (Ord. 1692; Code 2010)
- 4-211. AMENDMENT. None. (Ord. 1692; Code 2010)
- 4-212. ADDITION. The guidelines for manufactured housing installations, incorporated by reference in section 4-209 herein shall have the following additions:
 Section 503(a) SKIRTING OR PERMANENT PERIMETER ENCLOSURES. Skirting or permanent perimeter enclosures shall read as follows: Skirting or permanent perimeter enclosures shall be installed when a permanent concrete foundation around the perimeter of the manufactured home is not provided. Skirting shall be of material suitable for exterior exposure and contact with the ground. Permanent perimeter enclosures shall be constructed of materials as required by the building code for regular foundation construction. Skirting shall be

installed in accordance with the skirting manufacturer's installation instructions. Skirting shall be adequately secured to assure stability, to minimize vibration and susceptibility to wind damage, and to compensate for possible frost heave. Skirting shall be installed not later than 30 days after the manufactured home is placed on the permanent foundation.
(Ord. 1692; Code 2010)

ARTICLE 3. ELECTRICAL CODE

- 4-301. NATIONAL ELECTRICAL CODE INCORPORATED. The code known as the "National Electrical Code, 2005 Edition," recommended by the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269, is hereby incorporated by reference herein and made a part of this article, save and except such portions as are hereinafter or may hereafter be deleted or amended, as authorized an in the manner prescribed by the statutes of the State of Kansas. (Ord. 1861; Code 2010)
- 4-302. DELETIONS. The National Electrical Code, 2005 Edition, shall have the following sections deleted:
- (a) Table 300.5, Column 1, Direct Burial Cables or Conductors shall be deleted in its entirety.
 - (b) Article 527.6(A) Ground-Fault Protection for Personnel. (A) Receptacle Outlets. Shall have the reference to 30-amprere receptacle outlets deleted. (Ord. 1861; Code 2010)
- 4-303. ADDITIONS. The National Electrical Code, 2005 Edition, shall have the following additions:
- Article 210.23(A) 15- and 20-Amprere Branch Circuits. No more than eight (8) devices shall be installed on any 15-Amprere Branch Circuit nor more than twelve (12) devices shall be installed on any 20-Ampere Branch Circuit. For the purpose of this article, switches and devices which do not utilize or supply power shall not be counted as devices.
- Article 230.27 Means of Attachment. It shall be the responsibility of the electrical contractor to provide and install the means of attachment for the service entrance conductors.
- Article 230.70(A)4 Commercial and Industrial Locations:
- 1. Located inside the building within six (6) feet of an unlocked exit door to the exterior of the building. The exit door shall be marked "Electrical Main Disconnect" and an arrow pointing the direction of the disconnect from the door. The Safety Department shall be provided a key to this door if it is to be locked.
 - 2. Located on the exterior of the building in a rain tight enclosure. The disconnects may be locked, provide the Safety Department can use standard bolt cutters to open the enclosure (panel).
 - 3. Located at the utility pole or pad mounted transformer. The disconnects may be locked, provided the Safety Department can use standard bolt cutters to open the enclosure (panel).
- Article 230.70(A) 4 Residential Locations. Where the main electrical panel is located as to require more than fifteen (15) feet of unfused service entrance conductors inside a residential dwelling or structure, there shall be installed a main disconnecting device on the exterior of the dwelling or structure. (FPN) The electrical panel is considered a subfed panel and must be connected to the main disconnect on the exterior of the dwelling or structure with four (4) wire grounded conductors.

Article 300.5(A) Direct Buried Cable. Direct Buried Power Cables are not permitted in this jurisdiction. All Power cables installed underground shall be installed in raceways approved (Listed) for Direct Burial.

Article 300.5(A) 1 Conduit Sizing. All service conductors shall be installed in conduit as follows:

100 Ampere, Single-Phase - 2 inch conduit.

200 Ampere, Single-Phase - 3 inch conduit.

Three-Phase shall be installed in accordance with Electrical Distribution Department Requirements.

Article 590.4(D) Receptacles. All temporary construction services shall have installed a standard NEMA L6, 30-Ampere, 250-volt, 2 pole, 3 wire receptacle and all cords shall have installed a standard NEMA L6, 30-Ampere, 250-volt, 2 pole, 3 wire grounding type twist lock cap.

Article 430.1(A) Horsepower Rating. All motors of three (3) horse power or larger shall be three-phase rated where three-phase power is supplied by this jurisdiction. Existing motors of three horsepower or larger which are single-phase shall remain in service until such time as the motor or unit is replaced by a three-phase motor or unit. Written permission by the Building Official is required to install or replace single-phase motors or units when three-phase power is available.

Article 336-4 uses not permitted. Occupancies in districts zoned Commercial or Industrial except for Single-Family Dwellings.

Section 1206 – Inspections. (A) All mobile home and manufactured home units moved into the City of Augusta, Kansas, shall require a gas connection inspection. The mobile and manufactured home unit's internal gas piping shall be tested according to the provisions set forth in Section 1206 (c)(2) by a Master Plumber as licensed by the City of Augusta, Kansas.
(Ord. 1861; Ord. 1663; Code 2010)

4-304. AMENDMENTS. The National Electrical Code, 2005 Edition, shall have the following amendments:

(a) Article 527.6(A) Receptacle Outlets. Shall have the first sentence amended to read: "All 125 volt, single-phase, 15- and 20-ampere receptacle outlets that are not part of the permanent wiring of the building or structure and that are in use by personnel shall have ground-fault circuit interrupter protection for personnel."

(Ord. 1861; Code 2010)

ARTICLE 4. PLUMBING CODE

- 4-401. INTERNATIONAL PLUMBING CODE INCORPORATED. The code known as the International Plumbing Code, 2003 Edition, recommended by the International Code Council, Incorporated, is hereby incorporated by reference herein and made a part of this article, save and except such portions as are hereinafter or may hereafter be deleted or amended, as authorized and in the manner prescribed by the statutes of the State of Kansas. (Ord. 1868, Sec. C; Code 2010)
- 4-402. ADDITION. The International Plumbing Code, incorporated by reference in section 4-401 herein shall have the following additions:
- (a) Section 106.5.2 Fee Schedule shall have the following added to the end of the section, "See the International Building Code, Section 108.2.2."
 - (b) Section 108.4 Violation Penalties shall have the following added to the end of the section, "See the International Building Code, Section 113.4.1."
 - (c) Section 109.1 Appeals board. Add "See the International Building Code, Section 112 Appeals Board."
 - (d) Section 107.1.4 All mobile home and manufactured home units moved into the City of Augusta shall require a gas connection inspection. The mobile and manufactured home unit's internal gas piping shall be tested according to the provisions set forth in the International Fuel Gas Code, 2000 Edition.
 - (e) Section 608.8 LAWN SPRINKLER SYSTEMS. All lawn sprinkler systems receiving potable water from the City or receiving non-potable water from a private well shall be protected against back flow by the installation of an approved pressure-vacuum breaker installed a minimum of 12 inches above the highest point on the lawn sprinkler system and before any branch lines.
Section 608.8.1 TESTING. All new lawn sprinkler systems shall have the pressure-vacuum breaker tested before the system is approved by the Inspection Department. All existing back flow prevention devices, including pressure-vacuum breakers shall be tested annually. All test results shall be documented on an official form provided by the Inspection Department. The Inspection Department shall maintain all testing records in the Address Folder File.
 - (f) Section 701.1.2 SEWER LINE ELEVATIONS. All basement drain piping shall have a minimum five (5) foot fall (elevation) between the bottom of the lowest drain piping to the top of the main sewer line. Where this condition can not be met, the installation of an approved sewer ejector with check valve is mandatory. Manual shut-off valves or backflow prevention valves are not considered a substitute for the required sewer ejector.
Section 701.1.3 SEWER TAPS. All sewer taps shall be made with an approved saddle and clamps or epoxy bonding and concrete back fill.
 - (g) Section 917.1 GENERAL. Add to the end of the section, "Permission shall be required from the Inspection Department and noted on the Plumbing Permit."
(Ord. 1820; Code 2010)
- 4-403. DELETIONS. The International Plumbing Code, 2003 Edition, shall have the following deletions:

(a) Section 109.2 Membership of board, Section 109.2.1 Qualifications, Section 109.2.2 Alternate members, and Section 109.2.3 Chairman shall be deleted in their entirety.

(b) Section 605.4 Water service pipe. Delete the sentence, "Plastic water service piping shall terminate within 5 feet (1524mm) inside the point of entry into a building."

(c) Section 606.2 Location of shutoff valves. Delete item #2 in it's entirety. (Ord. 1820; Code 2010)

4-404.

AMENDMENTS. The International Plumbing Code, 2003 Edition, shall have the following amendments:

(a) Section 305.5 Pipes through or under footings or foundation walls. The last sentence in the section shall be amended to read "Such sleeve shall be 1/2 pipe size greater than the pipe passing through the wall."

(b) Section 606.1 Location of full-open valves. Amend Item #2 to read, "On the discharge side of every water meter larger than one-inch."

(c) Section 904.1 Roof extensions. Amend to read twelve (12) inches. (Ord. 1820; Code 2010)

ARTICLE 5. MECHANICAL CODE

- 4-501. INTERNATIONAL MECHANICAL CODE INCORPORATED. The code known as the International Mechanical Code, 2003 Edition, recommended by the International Code Council, Incorporated, is hereby incorporated by reference herein and made a part of this article, save and except such portions as are hereinafter or may hereafter be deleted or amended, as authorized and in the manner prescribed by the statutes of the State of Kansas. (Ord. 1868, Sec. 1E; Code 2010)
- 4-502. DELETION. The International Plumbing Code, 2003 Edition, shall have the following deletions:
(a) Section 109 MEANS OF APPEAL shall be deleted in its entirety.
(Ord. 1868; Code 2010)
- 4-503. AMENDMENT. None. (Ord. 1868; Code 2010)
- 4-504. ADDITIONS. The International Plumbing Code, 2003 Edition, shall have the following additions:
(a) Section 106.5.2 Fee Schedule shall have the following added, "See the International Building Code, Section 108.2.2."
(b) Section 108.4 Violation Penalties shall have the following added, "See the International Building Code, Section 113.4.1."
(c) Section 109 Means of Appeal shall have the following added, "See the International Building Code, Section 112.4."
(Ord. 1820; Code 2010)

ARTICLE 6. HOUSING CODE

- 4-601. UNIFORM HOUSING CODE INCORPORATED. That certain code known as the "Uniform Housing Code, 1991 Edition," recommended by the International Conference of Building Officials, 5360 Workman Mill Road, Whittier, California 90601, is hereby incorporated by reference herein and made a part of this article, save and except such portions as are hereinafter or may hereafter be deleted or amended as authorized by and in the manner prescribed by the statutes of the State of Kansas. (Ord. 1629; Code 2010)
- 4-602. DELETIONS. Deletions to the Uniform Housing Code incorporated by reference in section 4-601 herein shall be as follows:
- (a) Section 1102 Recording of Notice and Order.
 - (b) Section 1602 Report Transmitted to Council – Set for Hearing.
 - (c) Section 1603 Protest and Objections – How Made.
 - (d) Section 1604 Hearing of Protests.
 - (e) Section 1605 Personal Obligation or Special Assessment.
 - (f) Section 1606 Contest.
 - (g) Section 1607 Authority for Installment Payment of Assessments with Interest.
- (Ord. 1629; Code 2010)
- 4-603. AMENDMENTS. None. (Ord. 1629; Code 2010)
- 4-604. ADDITIONS. The Uniform Housing Code, incorporated by reference in section 4-601 herein shall have the following additions:
- A. Section 201(c)1 WEEDS, GRASS AND OTHER VEGETATION. The owner of any lot or piece of land within the City shall keep the lot or pieces of land free and clear of all weeds, grass and other vegetation by cutting or destroying all such weeds, grass and other vegetation before the same blossoms or matures or attains a size of six (6) inches on occupied property or twelve (12) inches on unoccupied property. Nothing in this section shall affect or impair the rights of the City under the provisions of the Kansas Statutes Annotated, Chapter 2, Article 13 and amendments thereto, relating to the control and eradication of certain noxious weeds.
- B. Section 303(a) INSPECTION STANDARDS. No person shall be found in violation of this code unless the building official or his representative, after a reasonable inquiry and inspection of the premises, believes that the conditions exist of a quality and appearance prohibited by this code and/or contrary to the health, safety and general welfare of the community exists on the premises in question. Such belief shall be supported by evidence of the unsightly conditions or other acts prohibited by this code, the technical codes or other regulations of the City.
- C. Section 401 DEFINITIONS.
- 1. ABANDONED MOTOR VEHICLE shall mean any motor vehicle which is not currently registered or tagged pursuant to KSA 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 shall mean a secondary structure detached from the principal structure but on the same premises, including but not limited to, garages, sheds, barns or out-buildings.

3. COMMERCIAL or INDUSTRIAL shall mean used or intended to be used primarily for other than residential purposes.

4. GARBAGE shall mean without limitation any accumulation of animal, fruit or vegetable waste matter that results from the handling, preparations, cooking, serving, delivering, storage or use of foodstuffs.

5. PREMISES shall mean 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.

6. REFUSE shall mean garbage, trash and any other discarded material of whatever description or composition.

7. RESIDENTIAL shall mean used or intended to be used primarily for human habitation.

8. TRASH shall mean 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 or street rubbish and sweepings.

D. Section 1001(k1). UNLAWFUL ACTS. It shall be unlawful for any person to allow to exist on any residential, commercial or industrial premises conditions which are detrimental to adjoining property, the neighborhood or the City. For the purposes of this section the unlawful acts shall be allowing to be scattered over the parking, leaving, depositing or accumulating on the yard of any premises the following described materials but not in limitation thereof: lumber, wire, metal, tires, concrete, masonry products, plastic products, supplies, equipment, machinery, auto parts, abandoned motor vehicles, furniture, stoves, refrigerators, televisions, sinks, bicycles, lawn mowers, junk, refuse, garbage, trash or other such items of personal property.

E. Section 1101(b)3(iv). If the building official has determined that an unlawful act exist on the premises, lot or parcel of land in violation of Section 1001k1 the order to abate the conditions causing the violation to be corrected within fifteen (15) days from the date of the mailing of the notice to alleviate the exterior conditions and/or fifteen (15) days from the date of the mailing of the notice to request a hearing before the Board of Appeals.

F. Section 1101(b)3(v). If the building official has determined that weeds, grass and other vegetation are not kept cut or are not destroyed in violation of Section 201(c)1 of this article, the order shall require five (5) days written notice if the owner or agent is known or ten (10) days notice in the official city newspaper if the owner or agent is unknown. Where the owner shall refuse to comply with said notice, or where the owner is unknown, the building official shall have such weeds, grass or other vegetation cut or destroyed by a private contractor.

ARTICLE 7. LANDSCAPING AND URBAN FORESTRY CODE

- 4-701. PURPOSE. The Governing Body of the city recognizes the importance of the urban forest to the quality of life in the city. The Governing Body declare it to be a policy of the city that city property be landscaped to enhance the natural beauty of the city; that the street environment be made hospitable through landscaping; and that residents of the city be encouraged to participate in beautification efforts through installing and maintaining quality landscaping on private property. (Ord. 1877, Sec. 2; Code 2010)
- 4-702. DEFINITIONS. The following terms shall have the meanings respectively ascribed to them in this section, unless the context clearly requires otherwise:
- (a) Community Forest - means all park trees, private trees and street trees as a total resource.
 - (b) Diseased Tree - means a tree that by reason of injury or disease constitutes a hazard to life and property, or harbors insects or disease which represent a threat to other trees within the city.
 - (c) Landscaping - means to change the natural features of a plot of ground so as to make it more attractive, as by adding lawns, frees, bushes, earthen works, rocks, boulders, other natural materials and lighting.
 - (d) Landscaping Plan - means a plan designed by a landscape architect describing the changes and additions that are proposed to change the natural features of a plot of ground.
 - (e) Park Trees - means trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all, other areas owned by, or under the control of, the city.
 - (f) Parking - means that portion of street right-of-way lying between the back of the curb or the edge of the traveled way, and the adjacent private property line on the same side of the street.
 - (g) Private Trees - means trees, shrubs, bushes and all other woody vegetation located on private property.
 - (h) Sight Triangle - means a triangle area at a street intersection in which nothing shall be erected, placed, planted or allowed to grow in such a manner as to impede driver vision between a height of 2 1/2 feet to 8 feet above the grades of the outside edge of the street surface of the intersecting streets, measured from the point of intersection of the property lines 30 feet in both directions along the streets.
 - (i) Street Trees - mean trees, shrubs, bushes, and all other woody vegetation on land lying between the property lines on either side of all arterial and collector streets within the city.
 - (j) Top - means to cut back limbs to stubs larger than three inches in diameter within the trees crown, to such a degree as to remove the normal canopy and disfigure the tree.
- (Ord. 1877, Sec. 2; Code 2010)
- 4-703. STREET TREES; LIST. A list of preferred and recommended street trees species, which shall consist of small, medium and large trees, shall be established from time to time by the Park Department, and a copy of the current list shall be

maintained in the Inspection Department and the Butler County Extension Office. Copies of the list shall be provided without charge to persons requesting the same. (Ord. 1877, Sec. 2; Code 2010)

- 4-704. ON-SITE INSPECTIONS. The Park Superintendent, Inspection Department, or other duly authorized agent of the city may inspect the work along arterial and collector streets to determine that the work is accomplished according to the approved landscaping plan. (Ord. 1877, Sec. 2; Code 2010)
- 4-705. INTERFERENCE WITH COMMUNITY FOREST DUTIES. It is unlawful for any person to prevent, delay or interfere with the city or any of its representatives or agents while engaged in planting, cultivating, mulching, pruning, spraying or removing any tree within the community forest, or performing any other duties or responsibilities prescribed by this chapter. (Ord. 1877, Sec. 2; Code 2010)
- 4-706. CARE OF COMMUNITY FOREST. (a) The city may, in its discretion, plant, prune, maintain and remove trees, plants and shrubs within all rights-of-way, public easements, streets, alleys, lanes squares and public grounds, as may be necessary to insure the public safety or to preserve or enhance the beauty of such public grounds.
(b) The city may remove any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is seriously affected by insects or disease.
(Ord. 1877, Sec. 2; Code 2010)
- 4-707. TREE PROTECTION. It shall be unlawful for any person to attach wire, rope, chain, sign or any other material to any tree on any public street, alley or public property; except when used as a preservation practice. The Inspection Department may exempt certain trees on any street, alley or public property from protection and have them removed when in the way of public improvements. (Ord. 1877, Sec. 2; Code 2010)
- 4-708. TRIMMING TREES BY PUBLIC OR PRIVATE UTILITIES. It shall be lawful for public and private utility companies owning transmission lines in the City to cut or trim trees or other growths in the parking, public ways, utility or drainage easements of the City which shall interfere with the transmission lines or utility meters. The public or private utility shall first notify the owner or occupant of the abutting property either verbally or in writing before work is commenced. (Ord. 1877, Sec. 2; Code 2010)
- 4-709. TREE TOPPING. It is unlawful for any person, to top any street tree, park tree, or other tree on public property; provided, that trees severely damaged by storms or other causes, and trees under utility wires or other obstructions where other pruning practices are impractical, may be topped when authorized by the City of Augusta. (Ord. 1877, Sec. 2; Code 2010)
- 4-710. INFECTED OR INFESTED TREES ON PRIVATE PROPERTY. Whenever the City or a State or Federal authority finds that tree(s) located upon private

property within the City are infected or infested with or harbors any tree or plant disease or insect pest or larvae, the uncontrolled presence of which may constitute a hazard to or result in the damage or destruction of other trees in the community, the property owner shall treat or remove any such designated tree within a time specified by written notice of the City. The property owner shall treat said tree within 10 days after notification or remove the same within 15 days after notification. (Ord. 1877, Sec. 2; Code 2010)

4-711. DEAD TREES ON PRIVATE PROPERTY. Property owners shall be responsible for the removal of any dead tree posing a hazard to any structure, fence, utility, street or alley, or pose a danger as an attractive nuisance to children. Said tree shall be removed within 15 days after notification. (Ord. 1877, Sec. 2; Code 2010)

4-712. TREE SCULPTURES. Upon written approval of the City of Augusta, private property owners may elect to remove the upper portion of any tree and reserve the bottom of the tree including the trunk to be made into a tree sculpture. The tree sculpture must be commenced within thirty days and completed within sixty days after the upper tree has been removed. Any tree sculpture, which becomes damaged, infected or infested must be removed according to the provisions of this article. Tree sculptures shall only apply to trees located on private property. No tree located in the street parking shall be made into a tree sculpture and shall be removed in its entirety. (Ord. 1877, Sec. 2; Code 2010)

4-713. REMOVAL OF TREE STUMPS. If any tree, shrubbery or hedge in the parking is cut down, it shall be the duty of the person or persons doing such work to take out the entire tree, shrubbery or hedge, including the trunk and stump and to remove the debris from the parking and property and to fill the hole(s) left by the removal of the stump(s) with dirt in such a manner that no hole shall be left in the parking. (Ord. 1877, Sec. 2; Code 2010)

4-714. PRIVATE LIMITATIONS TOP URBAN FORESTRY AND LANDSCAPING. No owner of property abutting upon any Residential Street, Alley, Utility or Drainage Easements shall plant any tree, shrubbery or hedge nor construct any landscaping in the street parking, alley or utility and drainage easements. No owner or occupant in the city shall replant any tree, shrubbery or hedge currently existing on any street parking, alley or utility and drainage easements which is removed for any reason. No owner or occupant in the city shall plant, grow, care for, keep or cultivate any mulberry or thorny locust trees. (Ord. 1877, Sec. 2; Code 2010)

4-715. STREET TREE REQUIREMENTS. The following requirements shall guide the planting of street trees in the parking of all arterial and collector streets, and private trees located adjacent to the street parking:

(a) Arterial and Collector street requirements.

(1) The developer or home owners association located along an arterial and collector street must provide liability insurance in the amount of \$300,000. The insurance policy shall add the City of Augusta as an additional insured as its interests may appear pertaining to the planting of street trees.

The liability, insurance, policy must be maintained for the life of the street landscaping and tree planting. The City reserves the right upon failure of the developer or home owner's association to maintain the liability insurance, to have all landscaping and tree planting removed from the street parking at the expense of the developer or home owner's association.

(2) The developer or home owner's association shall have prepared a landscaping plan to include the location and species of trees to be planted in the street parking. Said plan shall be prepared by a licensed landscape architect.

(3) The landscaping plan and liability insurance policy shall be presented to the Inspection Department for approval prior to planting.

(4) All tree planting shall be accomplished by a professional landscaping company or an individual or company with sufficient equipment and knowledge to accomplish the work under the supervision of the City park supervisor.

(5) The City park supervisor shall report all progress on the project to the Inspection Department.

(6) The developer or home owner's association shall be responsible for the maintenance and upkeep of all landscaping and urban forestry located in the street parking on arterial and collector streets which have been approved by the City. The City reserves the right upon failure of the developer or home owner's association to maintain the landscaping and urban forestry, to have all landscaping and urban forestry removed from the street parking at the expense of the developer or home owner's association.

(b) Spacing and location of street trees.

(1) Street trees shall not be planted in the sight triangle as defined by this article.

(2) Street trees may be planted no closer together than 30 feet between small trees; 40 feet between medium trees; and 50 feet between large trees. Exceptions can be granted by the Inspection Department.

(3) Street trees may be planted in the parking where there is more than 6 feet between the edge of the sidewalk and the curb of the street. Street trees shall be planted no closer than 3 feet from a sidewalk or a street. Exceptions can be granted by the Inspection Department.

(4) No street tree shall be planted closer than 10 feet from any fire hydrant.

(5) No street tree shall be planted closer than 35 feet from any street light.

(Ord. 1877, Sec. 2; Code 2010)

4-716. CLEARANCE OVER STREETS, ALLEYS, PUBLIC WAYS, WALKWAYS AND SIDEWALKS. Maintenance of adequate clearance over streets and walkways shall be the responsibility of the abutting property owner. A clearance of 8 feet must be maintained over walkways and sidewalks. A clearance of 14 feet must be maintained over streets, alleys and public ways subject to truck traffic.

(Ord. 1877, Sec. 2; Code 2010)

4-717. UTILITIES. No street trees other than those species listed as small trees may be planted under or within 10 feet of any overhead utility wire, or over or within 5

feet of any overhead utility wire, or over or within 5 feet of any underground municipal water line, sewer line, transmission line or other public utility. The City shall have the right to prune any tree or shrub on private property when it obstructs the view of drivers to observe traffic, traffic control devices, or signs. (Ord. 1877, Sec. 2; Code 2010)

4-718. ABUTTING PROPERTY OWNER RIGHTS. The owner of property abutting upon any street, alley, utility or drainage easements shall have such title in and property in growing trees, shrubbery and hedges upon his/her own property, and upon existing trees, shrubbery and hedges currently growing upon the parking situated in front of such real estate between the curb line and the property line. An abutting property owner shall have the right to perform normal tree care on street trees in conformity with this chapter and any other applicable regulations. The abutting property owner shall also have the right to maintain existing landscaping upon the parking. No new landscaping shall be permitted to be installed in the street parking, alley, utility or drainage easement. (Ord. 1877, Sec. 2; Code 2010)

4-719. ABUTTING PROPERTY OWNER RESPONSIBILITIES. It shall be the duty of every property owner of lots abutting upon any sidewalk or public way of the city, or adjacent to the street parking, alley, utility or drainage easement to plant, care for, grow, keep or cultivate any trees, shrubbery or hedge on such adjoining property or upon the parking abutting upon or adjacent thereto in violation of this ordinance.

It is hereby made the duty of the owner or occupant of any premises abutting on any street, avenue or alley in the city to cut, trim or remove, in accordance with the provisions of this article, all trees and shrubbery growing in the city and existing landscaping, which may constitute any hazard or any sight obstruction to any vehicular or pedestrian traffic upon the streets and sidewalks. (Ord. 1877, Sec. 2; Code 2010)

4-720. NOTICE TO OWNER, OCCUPANT. Notice to cut any trees, boughs, shrubbery or limbs to conform to the provisions of this article shall be served by the duly appointed public officer upon the owner or occupant of the abutting premises by both regular mail and registered mail. (Ord. 1877, Sec. 2; Code 2010)

4-721. ABATEMENT BY THE CITY. If such owner or occupant shall not within 30 days thereafter cause such damaged, diseased or obstructing trees, boughs, shrubbery or limbs to be removed as provided in accordance with the provisions of this article, then the City shall forthwith remove them. Proper pruning season will be taken into consideration. This section, however, shall not be construed as waiving the rights of the City to prosecute under the provisions of this article. (Ord. 1877, Sec. 2; Code 2010)

4-722. ASSESSMENT OF COSTS. The costs of abatement of any condition prohibited by this article by the City shall be assessed and charged against the lot or parcel of land on which the condition existed. The City Clerk shall, at the time of certifying other City taxes to the County Clerk, certify the costs of abatement of any condition prohibited by this article by the City; and the County Clerk shall

extend the same on the tax roll of the County against the property upon which such condition existed. Such costs shall be collected by the County Treasurer and paid to the City as other city taxes are collected and paid. (Ord. 1877, Sec. 2; Code 2010)

- 4-723. VIOLATION; PENALTY. Any person, firm or corporation violating any provisions of this chapter shall, upon conviction or a plea of guilty, be subject to a fine not to exceed five hundred dollars or equivalent community service. For the purpose of this chapter, a separate offense shall be deemed committed for each tree on which such violation exists. (Ord. 1877, Sec. 2; Code 2010)

ARTICLE 8. ADDRESSING CODE

- 4-801 INSPECTION DEPARTMENT AUTHORIZED TO ASSIGN NUMBERS. The City Inspection Department shall decide the correct number to assign each dwelling, building or lot. The Inspection Department shall provide each city department, postal authority and serving utilities with a correct list of address numbers. (Ord. 1820; Code 2010)
- 4-802 FORMULA FOR ASSIGNING STREET ADDRESS NUMBERS.
- (a) Odd numbers shall be given to lots, buildings and structures on the South side of East-West streets and on the West side of North-South streets.
 - (b) Even numbers shall be given to lots, buildings and structures on the North side of East-West streets and on the East side of North-South streets.
 - (c) Address numbers shall commence at Second Avenue and each block shall receive 100 numbers. Blocks in excess of 1,000 feet shall be assigned 100 numbers for each 600 feet.
 - (d) Address numbers for East-West streets shall commence with the center line of State street and an imaginary line running North from the center line of State street where it intersects Kelly Avenue, and each block shall receive 100 numbers. Blocks in excess of 1,000 feet shall be assigned 100 numbers for each 600 feet.
 - (e) East-West Prefixes. All streets running East of State street shall be designated with the prefix "East," and all streets running West of State street shall be designated with the prefix "West."
 - (f) All streets, avenues, etc., within a specific platted subdivision which are not laid out according to East-West or North-South directions, may be numbered according to the lots and blocks, provided the numbers are consecutive with all odd numbers on one side of the street and even numbers on the opposite side of the street.
 - (g) If at all possible, no address shall be numbered A, B, C, etc.
 - (h) Special housing units may have one street address and have building or apartment numbers assigned to each unit.
 - (i) The owner(s) of a Manufactured Home Park, Mobile Home Park or Recreational Vehicle Park shall assign lot numbers to each rental space. The park owner shall provide the Inspection Department with an address map of the park. The Inspection Department will provide copies of the map to all city departments, postal authorities and serving utilities. (Ord. 1820; Code 2010)
- 4-803 PLACING NUMBERS. The figures of each number put on any dwelling, building or other structure shall not be less than four (4) inches in height and shall be conspicuously placed on the front of the dwelling, building or structure facing the street. Manufactured homes and mobile homes shall have the figures of each number not less than three (3) inches in height and shall be conspicuously placed on the end of the manufactured/mobile home facing the common street. The placing of numbers on the lots in a recreational vehicle park shall have figures of each number not less than three (3) inches in height

and shall be conspicuously placed on a sign or placed on the electrical service panel. (Ord. 1820; Code 2010)

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BUILDING TO BE NUMBERED BEFORE OCCUPIED. All new dwellings, buildings or structures requiring a number under this article shall be numbered before said building is occupied. (Ord. 1820; Code 2010)

ARTICLE 9. MOVING BUILDINGS

- 4-901. BUILDING OFFICIAL; AUTHORITY. The city manager or his or her authorized designee shall be responsible for the administration and enforcement of this article and appointment of an inspector. (Code 1991)
- 4-902. 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. (K.S.A. 17-1914; Code 1991)
- 4-903. SAME: APPLICATION FOR PERMIT. All applications for permits required under the provisions of this article shall be made in writing to the inspection department 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 1991)
- 4-904. 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 1991)
- 4-905. 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 \$25 to the city clerk; plus the additional cost for the time for any city crews involved in such moving. (Code 1991)
- 4-906. ROUTE; DUTIES OF BUILDING OFFICIAL. The inspection department 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 1991)

- 4-907. 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 1991)
- 4-908. 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 4-907, shall be liable to the permit holder for damages in an amount not to exceed \$100 per day for each day the owner shall fail or refuse to accommodate the permit holder's moving operations.
- (K.S.A. 17-1917; Code 1991)
- 4-909. 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 1991)
- 4-910. DISPLAY OF WARNING LIGHTS. 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 light 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 1991)

ARTICLE 10. DANGEROUS AND UNFIT STRUCTURES

- 4-1001. 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 1991)
- 4-1002. DEFINITIONS. For the purpose of this article, the following words and terms shall have the following meanings:
(a) Public Officer means the city manager or his or her authorized representative.
(b) 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.
(K.S.A. 12-1750; Code 1991)
- 4-1003. 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 1991)
- 4-1004. 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 1991)
- 4-1005. SAME; NOTICE. The governing body upon receiving a report as provided in section 4-1004 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 1991)

- 4-1006. 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 1991)
- 4-1007. SAME; HEARING, ORDER. (a) 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.
- (b) If the repair, alteration, or improvement of the structure can be made at a cost which shall not exceed 50 percent of the fair market value of the structure, the owner of the property shall, within the time specified in the order, repair, alter or improve the structure to render it safe and fit for human use or habitation, or shall vacate and close the structure until such time as he has complied with the order.
- (c) If the repair, alteration or improvement of the structure cannot be made at a cost of 50 percent or less of its fair market value, the owner shall, within the time specified in the order, remove or demolish the structure.
(Code 1991)
- 4-1008. 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 1991)
- 4-1009. 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 1991)
- 4-1010. 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 1991)

4-1011. 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 1991)

4-1012. 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 4-1012. (K.S.A. 12-1756; Code 1991)

4-1013. 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 1991)

4-1014. 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 1991)

ARTICLE 11. INTERNATIONAL PRIVATE DISPOSAL CODE

- 4-1101. INTERNATIONAL PRIVATE DISPOSAL CODE INCORPORATED. That certain international code known as the "International Private Disposal Code, 2003 Edition," recommended by the International Code Council, Incorporated, is hereby incorporated by reference herein and made a part of this article, save and except such portions as are hereinafter or may hereafter be deleted or amended, as authorized and in the manner prescribed by the statutes of the State of Kansas. (Ord. 1820; Code 2010)
- 4-1102. DELETIONS. The International Private Disposal Code, 2003 Edition, shall have the following deletions:
(a) Section 109.2 Membership of board, Section 109.2.1 Qualifications, Section 109.2.2 Alternate members, and Section 109.2.3 in their entirety. (Ord. 1820; Code 2010)
- 4-1103. AMENDMENTS. There are no amendments to the International Private Disposal Code, 2003 Edition. (Ord. 1820; Code 2010)
- 4-1104. ADDITIONS. The International Private Disposal Code, 2003 Edition, shall have the following additions:
(a) Section 106.4.2 Fee Schedule. See the International Building Code, Section 108.2.2.
(b) Section 108.4 Violation Penalties. See the International Building Code, Section 113.4.1.
(c) Section 109.1 Appeals Board. Add "See the International Building Code, Section 112 Appeals Board." (Ord. 1820; Code 2010)

ARTICLE 12. INTERNATIONAL FUEL GAS CODE

- 4-1201 INTERNATIONAL FUEL GAS CODE INCORPORATED. That certain international code known as the "International Fuel Gas Code, 2003 Edition," recommended by the International Code Council, Incorporated, is hereby incorporated by reference herein and made a part of this article, save and except such portions as are hereinafter or may hereafter be deleted or amended, as authorized and in the manner prescribed by the statutes of the State of Kansas. (Ord. 1868; Code 2010)
- 4-1202 DELETIONS. The International Plumbing Code, 2003 Edition, shall have the following deletions:
Section 109 MEANS OF APPEAL shall be deleted in it's entirety. (Ord. 1868; Code 2010)
- 4-1203 AMENDMENTS. There are no amendments to the International Fuel Gas Code, 2003 Edition. (Ord. 1868; Code 2010)
- 4-1204 ADDITIONS. The International Fuel Gas Code, 2003 Edition, shall have the following additions:
(a) Section 106.5.2 Fee Schedule shall have the following added, "See the International Building Code, Section 108.2.2."
(b) Section 108.4 Violation Penalties shall have the following added, "See the International Building Code, Section 113.4.1."
(c) Section 109 Means of Appeal shall have the following added, "See the International Building Code, Section 112.4."
(d) "Section 105.5 All mobile home and manufactured home units moved into the City of Augusta shall require a gas connection inspection. The mobile and manufactured home unit's internal gas piping shall be tested according to the provisions set forth in the International Fuel Gas Code, 2000 Edition. (Ord. 1868; Code 2010)

ARTICLE 13. INTERNATIONAL PROPERTY MAINTENANCE CODE

- 4-1301 INTERNATIONAL PROPERTY MAINTENANCE CODE INCORPORATED.
That certain international code known as the "International Property Maintenance Code, 2003 Edition," recommended by the International Code Council, Incorporated, is hereby incorporated by reference herein and made a part of this article, save and except such portions as are hereinafter or may hereafter be deleted or amended, as authorized and in the manner prescribed by the statutes of the State of Kansas. (Ord. 1888; Code 2010)
- 4-1302 DELETIONS. The International Property Maintenance Code, 2003 Edition, shall have the following deletions:
(a) Section 103.1 General. Shall be deleted in its entirety.
(b) Section 106.4 Violation penalties. Shall be deleted in its entirety.
(c) Section 106.6.6 Court Review. Shall be deleted in its entirety.
(d) Section 111 Means of Appeal. Shall be deleted in its entirety.
(Ord. 1888; Code 2010)
- 4-1303 AMENDMENTS. The International Property Maintenance Code, 2003 Edition, shall have the following amendments:
(a) Section 101.1 Title. Shall be amended to read "These regulations shall be known as the *Property Maintenance Code of the City of Augusta, Kansas*, hereinafter referred to as "This Code."
(b) Section 102.3 Application of other codes. Shall be amended to read "Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the *International Existing Building Code*. Nothing in this code shall be construed to cancel, modify or set aside any provision of the adopted *Zoning Regulations*."
(c) Section 104.3 Inspections. Shall be amended to read "The code official shall make all of the required inspections, or shall accept reports of inspection by approved agencies, the Inspection Department, Safety Department, Public Works and other departments of the city. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The code official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority."
(d) Section 104.4 Right of entry. Shall be amended to read "The code official, officer or employee charged with the enforcement of this code are authorized to enter the structure or premises at reasonable times to inspect subject to constitutional restrictions on unreasonable searches and seizures. If entry is refused or not obtained, the code official is authorized to pursue recourse as provided by law. It shall be unlawful to interfere with any such authorized officer or employee charged with the enforcement of this code."
(e) Section 104.5 Identification. Shall be amended to read "The code official, officer or employee charged with the enforcement of this code shall carry proper identification when inspecting structures or premises in the performance of duties under this code."

(f) Section 104.7 Department records. Shall be amended to read "The code official shall keep official records of all business and activities of the department specified in the provisions of this code. Such records shall be retained in the official records as long as the premises, building or structure to which such records relate remains in existence, unless otherwise provided for by other regulations.

(g) Section 106.3 Prosecution of violation. Shall be amended to read "Any person failing to comply with a notice of violation or order served in accordance with Section 107 shall be deemed guilty of a misdemeanor, and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the code official shall institute the appropriate proceeding at law to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant hereto."

(h) Section 106.4.1 Penalties. Shall be amended to read "Section 106.4 Penalties."

(i) Section 107.2 Form. Shall be amended to read "Such notice prescribed in Section 107.1 shall be in accordance with all the following:

1. Be in writing.
2. Include a description of the real estate sufficient for identification.
3. Include a statement of the violation or violations and why the notice is being issued.
4. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the dwelling unit, structure or premises into compliance with the provisions of this code.
5. Inform the property owner of the right to appeal and/or request an informal hearing before the Code Official or Deputy Code Official as provided in Section 106.2.1 of this code.
6. Include a statement that if the violation is not abated as directed and no request for hearing is made within the prescribed time, a resolution will be presented to the Governing Body to abate such violation and assess the cost thereof against such property.

(j) Section 107.3 Method of service. Shall be amended to read "Such notice shall be deemed to be properly served if a copy thereof is:

1. One notice sent by regular mail and one notice sent by certified mail return receipt requested to the same responsible person at the same address.
2. If the certified mail is returned as unclaimed and the regular mail notice is not returned with the same, the responsible person is deemed to have been notified if the code official posts a copy of the notice on the property, hangs a copy of the notice on the door, delivers the notice personally or contacts the person by telephone.
3. In the event the name or address of the responsible person (s) are unknown and the official notice returns unclaimed and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the Code Official and filed with the City Clerk, and the serving of the official notice or resolution shall be made by publishing the same once each week for two consecutive weeks on the same day in the

official city newspaper and by posting a copy of the resolution on the premises where such conditions exist."

(k) Section 108.1 General. Shall be amended to read "When a structure is found by the Governing Body to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this code. When equipment is found by the code official to be unsafe, such equipment shall be condemned pursuant to the provisions of this code.

(l) Section 108.1.3 Structures unfit for human occupancy. Shall be amended to read "A structure is unfit for human occupancy whenever the Governing Body finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public."

(m) Section 108.2 Closing of vacant structures. Shall be amended to read "If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the Governing Body may authorize the code official to post a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner to close up the premises within the time specified in the order, the Governing Body shall authorize the code official to cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and may be collected by any other legal resource."

(n) Section 108.3 Notice. Shall be amended to read "Whenever the Governing Body has condemned a structure or the code official has condemned equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner or the person or persons responsible for the structure or equipment in accordance with Section 107.3. If the notice pertains to equipment, it shall also be placed on the condemned equipment. The notice shall be in the form prescribed in Section 107.2."

(o) Section 108.5 Prohibited occupancy. Shall be amended to read "Any occupied structure condemned by the Governing Body and placarded by the code official shall be vacated as ordered by the Governing Body. Any person who shall occupy a placarded premises or shall operate placarded equipment, and any owner or any person responsible for the premises who shall let anyone occupy a placarded premises or operate placarded equipment shall be liable for the penalties provided by this code."

(p) Section 109.1 Imminent danger. Shall be amended to read "When, in the opinion of the Governing Body, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the

presence of toxic fumes, gasses or materials, or operation of defective or dangerous equipment, the code official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The code official shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the Governing Body." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same."

(q) Section 109.2 Temporary Safeguards. Shall be amended to read "Notwithstanding other provisions of this code, whenever, in the opinion of the Governing Body there is imminent danger due to an unsafe condition, the code official shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the code official deems necessary to meet such emergency."

(r) Section 110.1 General. Shall be amended to read "The Governing Body shall order the owner of any premises upon which is located any structure, which in the Governing Body's judgment is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary or to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, to demolish and remove such structure."

(s) Section 201.3 Terms defined in other codes. Shall be amended to read "Where terms are not defined in this code and are defined in *the International Building Code, International Residential Code, International Fire Code, International Plumbing Code, International Mechanical Code, International Existing Building Code, National Electrical Code, Zoning and Subdivision Regulations*, such terms shall have the meanings ascribed to them as in those codes."

(t) Section 302.3 shall be amended to read "Section 302.3 Sidewalks, driveways, parking lots, street, street parking and alley ways. All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions. Each person in the city shall keep the sidewalks, gutters, and public alleys clean and clear of mud, filth, dirt, debris, trash, litter and other substances, and weeds and grass, and shall also keep any grass median area between the property line and the street curb in front of or adjacent to any such property mowed and free from filth, debris, trash, litter and weeds, and shall also keep the sidewalks in front of and adjacent to any such property free and clear of any accumulation of snow and ice which present a hazard to pedestrians. If any such building abuts directly upon a public street, that portion of such public street so abutting the building shall be kept clean and clear of filth, dirt, debris, trash, litter and other substances."

(u) Section 302.4 Weeds. Shall be amended to read "See Ordinance Number 1730."

(v) Section 302.9 Defacement of property. Shall be amended to read "No person shall willfully or wantonly damage, mutilate or deface any exterior surface

of any structure, building, sidewalk or street on any private or public property by placing thereon any marking, carving or graffiti. It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair."

(w) Section 604.2 Service. Shall be amended to read "The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with the National Electrical Code. Dwelling units shall be served by a three-wire, 120.240 volt, single-phase electrical service having a rating of not less than 100 amperes." (Ord. 1888; Code 2010)

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ADDITIONS. The International Property Maintenance Code, 2003 Edition, shall have the following additions:

(a) "Section 101.3.1 Purpose. The purpose of this code is to promote the health, safety and welfare of the residents of the City of Augusta, Kansas and to protect neighborhoods against physical, visual and economic deterioration."

(b) "Section 103.1 General. The code official shall be the City Manager of Augusta, Kansas."

(c) Section 103.5 Fees. Shall have the following sentence added "The department of property maintenance shall charge all administrative, publication, notifications and other fees to the property in violation."

(d) Section 104.1 General. Shall have the following sentence added "The code official may assign enforcement duties to the Inspection Department, the Safety Department, Public Works and other departments of the city."

(e) Section 106.1 Unlawful acts. Shall have the following sentence added "It shall be unlawful to cause, permit, maintain or allow the creation or maintenance of a nuisance, substandard property, building or structure maintenance."

(f) "Section 106.2.1 Informal Hearing. Whenever the Code Official or Deputy Code Official determines that there has been a violation of this Code, the Code Official or Deputy Code Official may arrange with the alleged violator for an informal discussion of violations, and whether repair, correction or demolition is justified. If a satisfactory solution to the violations, either by correction, demolition or removal, is not forthcoming, the Code Official shall abate the conditions as provided by this code."

(g) "Section 106.5.1 Municipal Judge may direct abatement and assess costs. If, upon trial and conviction for causing or maintaining any violation as defined and prohibited by this code and other ordinances of this city, it shall appear that the violation complained of continues to exist, the municipal judge may, in addition to the penalty imposed for causing or maintaining such violation, make an order directing the code official to abate the violation forthwith and report the expense thereof to the municipal judge, who may make such cost a part of the judgment in addition to the fine and/or imprisonment imposed. Such costs shall be collected in the same manner as other fines and penalties."

(h) "Section 106.6 Abatement by the Governing Body. If a person to whom a notice has been sent, pursuant to this code, has neither alleviated the conditions causing the alleged violation nor requested a hearing before the Governing Body within the time period specified, the Code Official may present in writing, to the City Clerk a request for a hearing before the Governing Body. In all cases involving condemnation, demolition and the forceful loss or removal of

private property, the Code Official shall request, in writing to the City Clerk, for a hearing before the Governing Body."

"Section 106.6.1 Hearing date and notification of the same. Upon receipt of a request for a hearing, the City Clerk shall notify, in writing, the Governing Body of such request at the next regularly scheduled meeting. The Governing Body shall, by resolution, determine a date for the hearing. The City Clerk shall publish the Resolution once each week for two consecutive weeks on the same day of the week in the official city newspaper. The hearing shall be at least 15 days after the first publication. A copy of the resolution shall be served upon the person or persons in violation as provided by Section 107.3 of this Code."

"Section 106.6.2 Hearing before the Governing Body. All hearings before the Governing Body shall be open to the public. The person to whom a notice has been sent and their legal counsel, the Code Official and any person whose interests are affected shall be given an opportunity to be heard. The person to whom a notice was sent, legal counsel and Code Official may introduce such witnesses and evidence as is deemed necessary and proper by the Governing Body. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received. A simple majority of the Governing Body shall constitute a quorum."

"Section 106.6.3 Disqualification of Council Member. A Council Member shall not hear a case in which that member has a personal, professional or financial interest."

"Section 106.6.4 Abatement resolution. Upon finding of fact, the Governing Body shall pass a resolution of abatement which shall be published once in the official city newspaper and serve notice on the person in violation as provided in Section 107.3 of this Code.

In cases involving vehicles on private property the resolution shall fix a reasonable time within which the violation(s) is to be corrected. The resolution shall further direct the code official to have the vehicle(s) removed from the property, impounded and disposed of according to Kansas Law at the owner's expense.

In cases involving the upkeep of premises (exterior yard), the resolution shall fix a reasonable time within which the violation(s) is to be corrected and a statement that if the owner of such violation(s) fails to commence abatement of the violation(s) within the time stated or fails to diligently prosecute the same until the violation(s) is abated the Governing Body shall direct the code official to either hire a private contractor or use city personnel and equipment to abate the violation(s) at the property owner's expense.

In cases involving buildings and structures, mandatory repair, condemnation or demolishing the resolution shall fix a reasonable time within which the owner shall obtain a building permit to repair or demolish the building or structure and fix a reasonable time to complete said repairs or removal. The resolution shall further direct the code official to hire a private contractor or use city personnel to demolish the building or structure if no building permit has been issued within the time established or the owner fails to diligently make the required repairs or demolition of the building or structure. Such demolition shall be at the expense of the property owner. The resolution shall further provide that the costs incurred by the

City shall be assessed against the property as a Special Assessment or lien against the property."

"Section 106.6.5 Special assessment. The Code Official shall submit all bills and expenses incurred in abating a violation to the City Clerk. The City Clerk shall send the property owner of record a copy of the assessment and allow 30 days for payment in full. The City Clerk shall have the resolution and special assessment recorded with the Butler County Register of Deeds and a copy of the special assessment recorded with the Butler County Clerk for inclusion on the property tax rolls if the property owner of record fails to pay the assessment at the end of the required 30 days."

(i) "Section 110.5 Costs of demolition by the Governing Body. The cost of demolition by the Governing Body shall be a lien upon the property upon which the cost was incurred and such lien, including as a part thereof an allowance of his or her costs and necessary attorney's fees and title search, shall be assessed as a special assessment upon the lot or parcel of land on which the structure was located as provided in Section 106.5 of this code."

(j) Section 111.1 Application for appeal. Any person directly affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal to the Governing Body, provided that a written request for appeal shall be filed with the office of the City Clerk within the time specified in the notice. An application of appeal shall be based on a claim that the true intent of this code or the rules legally adopted there under have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

Section 111.2 Hearing date and notification of the same. Upon receipt of a request for a hearing, the City Clerk shall notify, in writing, the Governing Body of such request at the next regularly scheduled meeting. The Governing Body shall, by resolution, determine a date for the hearing. The City Clerk shall publish the Resolution once each week on the same day of the week for two consecutive weeks in the official city newspaper. The hearing shall be at least 30 days after the second publication. A copy of the resolution shall be served upon the person or persons in violation as provided by Section 107.3 of this Code.

Section 111.3 Hearing before the Governing Body. All hearings before the Governing Body shall be open to the public. The person to whom a notice has been sent and their legal counsel, the Code Official and any person whose interests are affected shall be given an opportunity to be heard. The person to whom a notice was sent, legal counsel and Code Official may introduce such witnesses and evidence as is deemed necessary and proper by the Governing Body. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received. A simple majority of the Governing Body shall constitute a quorum.

Section 111.4 Disqualification of Council Member. A Council Member shall not hear a case in which that member has a personal, professional or financial interest.

Section 111.5 Abatement resolution. Upon finding of fact, the Governing Body shall pass a resolution of abatement which shall be published once in the official city newspaper and serve notice on the person in violation as provided in Section 107.3 of this Code.

In cases involving vehicles on private property the resolution shall fix a reasonable time within which the violation(s) is to be corrected. The resolution shall further direct the code official to have the vehicle(s) removed from the property, l pounded and disposed of according to Kansas Law at the owner's expense.

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In cases involving buildings and structures, mandatory repair, condemnation or demolishing the resolution shall fix a reasonable time within which the owner shall obtain a building permit to repair or demolish the building or structure and fix a reasonable time to complete said repairs or removal. The resolution shall further direct the code official to hire a private contractor or use city personnel to demolish the building or structure if no building permit has been issued within the time established or the owner fails to diligently make the required repairs or demolition of the building or structure. Such demolition shall be at the expense of the property owner. The resolution shall further provide that the costs incurred by the City shall be assessed against the property as a Special Assessment or lien against the property."

Section 111.6 Special assessment. The Code Official shall submit all bills and expenses incurred in abating a violation to the City Clerk. The City Clerk shall send the property owner of record a copy of the assessment and allow 30 days for payment in full. The City Clerk shall have the resolution and special assessment recorded with the Butler County Register of Deeds and a copy of the special assessment recorded with the Butler County Clerk for inclusion on the property tax rolls if the property owner of record fails to pay the assessment at the end of the required 30 days.

(k) "Section 202 General Definitions."

Cellar. Any portion of a building located partly or wholly underground, and having half or more than half of its clear floor-to-ceiling height below the average grade of the adjoining ground.

Dilapidation, Deterioration or Disrepair. Any condition characterized by, but not limited to: holes, breaks, rot, decay, crumbling, cracking, peeling, or flaking paint, rusting, or other evidence of physical damage, neglect, lack of maintenance, excessive use or weathering.

Exterior structure. 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 sings.

Junk. The storage of all old appliances, equipment, or parts thereof, all old iron or other scrap metal, automobile tires, cardboard, old lumber, old wood and mattresses, which items are not being used for their intended purposes, and does not include orderly stacked firewood.

Motor Vehicle. Any automobile, truck, tractor, farm machinery, motorcycle, motorized bicycle or other device designed and used for transportation of persons or property which, as originally built, contained an engine, regardless of whether it contains an engine at any other time.

Motor Vehicle, Abandoned. Any motor vehicle which is not currently registered or tagged pursuant to K.S.A. 8-126 to 8-149 inclusive, as amended; any motor vehicle which does not carry motor vehicle liability insurance pursuant to K.S.A. 40-3101, as amended; or parked in violation of this code; or incapable of moving under its own power; placement of the vehicle or parts thereof upon jacks, blocks, or other supports; or in a junked or wrecked condition.

Motor Vehicle, Inoperable. Any motor vehicle which cannot be driven upon the public streets for reason including but not limited to being in 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.

Motor Vehicle, Junk. Any vehicle which is wrecked, scrapped, ruined, partially dismantled, inoperative, abandoned and/or without a valid automobile license tag.

Nuisances. Any condition which is injurious to health, or is a potential health hazard, or is indecent, or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood, or by a majority of persons subjected to the condition, such condition being no less a nuisance because the extent of the annoyance or damage inflicted is unequal. Nuisances shall include, but not limited to:

1. Garbage, junk, rubbish and trash deposited on the exterior of the property, street parking or alley way or stored in an accessory building on the property.
2. Abandoned, inoperable or junked motor vehicle.
3. Open storage of construction materials unless neatly stacked and covered.
4. Open storage of salvage materials in any residential or commercial district.
5. Open storage of appliances including refrigerators, freezers, stoves, microwaves, power tools, and similar tools.
6. Interior furniture stored, maintained or used on the exterior of a dwelling or dwelling unit which is so dilapidated and deteriorated as to be a potential accident hazard, a harborage for insects, rodents or vermin or which emits offensive odors.
7. Buildings, structures, privies, sheds, barns, garages, tool houses and vacant houses and commercial structures which have become so dilapidated and deteriorated as to be a potential accident hazard, rat harborage, attractive nuisance to children or to be offensive to the senses.
8. Dead animals or animal excrement not managed or disposed of in a sanitary manor.
9. Wastewater discharge or allowed to accumulate, improper water impoundments or lack of adequate drainage in such a manner that it does or may allow direct human contact with human or animal excrete, organic or

inorganic pollution of ground or surface water, breeding of insects, harboring or attraction of rodents, or the emission of offensive odors.

10. Excessive noise resulting from home hobby work, commercial or industrial processes.

11. The discharge into the atmosphere of any gaseous or particulate matter resulting from the combustion, reduction, processing or manufacturing of materials in industrial or commercial operations which cause or may cause injury to the health of individuals, damage to business or property or cause annoyance to a majority of persons so subjected.

12. Growth of noxious weeds and/or unwanted or unkempt vegetation over ten (10) inches high, and unkempt shrubs, hedges and trees on any premises and in streets and alleys in front of and abutting on any premises in the city.

Salvage Material. Materials of some value that are obtained from the disassembly of various kinds of machinery, mechanical appliance, and/or the demolition of buildings or structures.

Street or Highway. The entire width between property lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular traffic. Where the word 'highway' or the word 'street' is used in this code, it means street, avenue, boulevard, thoroughfare, traffic way, alley and any other public way for vehicular travel by whatever name unless the context clearly indicates otherwise.

Temporary Housing. Any tent, trailer, recreational vehicle, motor home, camping trailer, or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, house or building or other structure, or to any utilities on the same premises for more than 30 consecutive days, except when located in a mobile home park zoned by the City.

Trash. Any combustible waste consisting of, but not limited to: papers, cartons, boxes, barrels, wood, excelsior, furniture, bedding, rags, leaves, yard trimmings, or tree branches and noncombustible waste consisting of, but not limited to: metal, tin cans, glass, crockery, plastics, mineral matter, ashes, bricks, masonry, rocks, or street rubbish and sweepings."

(l) "Section 301.4 Unlawful acts. It shall be unlawful for any person to allow to exist on any 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."

(m) Section 302.1 Sanitation. Add the following sentence at the end of the section. "It shall be unlawful for any person to maintain or permit any nuisance within the city as defined by this code."

(n) 302.5 Rodent harborage. Add the following sentences at the end of the section. "Every occupant of a single dwelling shall be responsible for the extermination of any rodents, other vermin therein or on the premises. Wherever two or more occupants are in the same building, the owner or operator of the building shall be responsible for such extermination."

(o) Section 302.8 Motor vehicles. Add the following sentences at the end of the section. "Painting of vehicles is prohibited unless conducted inside a garage or similar accessory building in residential areas. Painting of vehicles is prohibited

in commercial or industrial areas unless conducted inside an approved spray booth."

(p) "Section 302.8.1 Off road title. For the purposes of these regulations, an "off road title or off road tag" shall not be an acceptable title or tag."

(q) "Section 302.8.2 Inspection. Vehicles which have been cited as being Abandoned, Inoperable or in a Junked condition, shall be driven to the Inspection Department during normal working hours to be inspected. The inspector shall insure the vehicle is properly tagged, registered and insured."

(r) "Section 303.2 Enclosures. Add the following exception at the end of the section. "A swimming pool, hot tub or spa shall be acceptable in lieu of fencing and gates so long as the cover is securely secured to the pool, hot tub or spa when not occupied."

(Ord. 1888; Code 2010)

CHAPTER V. BUSINESS REGULATIONS

- Article 1. Solicitors, Canvassers, Peddlers
- Article 2. Pawnbrokers and Precious Metal Dealers
- Article 3. Adult Entertainment Establishments and Hotels
- Article 4. Escort Services

ARTICLE 1. SOLICITORS, CANVASSERS, PEDDLERS

5-101. DEFINITIONS. For the purpose of this article, the following words shall be considered to have the following meanings:

(a) Soliciting - shall mean and include any one or more of the following activities:

(1) Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, services, of any kind, character or description whatever, for any kind of consideration whatever; or

(2) Seeking to obtain prospective customers for application or purchase of insurance of any type, kind or character; or

(3) Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication.

(b) Residence - shall mean and include every separate living unit occupied for residential purposes by one or more persons, contained within any type of building or structure.

(c) Canvasser or Solicitor - shall mean any individual, whether resident of the city or not, whose business is mainly or principally carried on by traveling either by foot, automobile, motor truck, or any other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries, or exposes for sale a sample of the subject of such sale or whether he or she is collecting advance payments on such sales or not. Such definition shall include any person, who, for himself, herself or for another person, hires, leases, uses, or occupies any building, structure, tent, railroad boxcar, boat, hotel room, lodging house, apartment, shop or any other place within the city for the sole purpose of exhibiting samples and taking orders for future delivery.

(d) Peddler - shall mean any person, whether a resident of the city or not, traveling by foot, automotive vehicle, or any other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale, or making sales and delivering articles to purchasers, or who, without traveling from place to place, shall sell or offer the same for sale from a wagon, automotive vehicle, railroad boxcar or other vehicle or conveyance, and further provided, that one who solicits orders and as a separate transaction makes deliveries to

purchasers as a part of a scheme or design to evade the provisions of this article shall be deemed a peddler.

(e) Transient merchant, itinerant merchant or itinerant vendor - are defined as any person, whether as owner, agent, consignee or employee, whether a resident of the city or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within such city, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, railroad boxcar, or boat, public room in hotels, lodging houses, apartments, shops or any street, alley or other place within the city, for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction. Such definition shall not be construed to include any person who, while occupying such temporary location, does not sell from stock, but exhibits samples only for the purpose of securing orders for future delivery only. The person so engaged shall not be relieved from complying with the provisions of this article merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer.

(f) Street salesman - shall mean any person engaged in any manner in selling merchandise of any kind from a vehicle or stand temporarily located on the streets or sidewalks of this city, or in the city right of way.

(Code 1991)

5-102. LICENSE REQUIRED. (a) It shall be unlawful for any person to engage in any of the activities defined in the preceding sections of this article, within the corporate limits of the city without then having an unrevoked and unexpired license therefor in his or her possession and issued by the city clerk.

(b) The governing body may waive the license requirements of this section for any person, firm or corporation exempt from the payment of a license fee under section 5-207(d). (Code 1991)

5-103. SAME; APPLICATION REQUIRED. Before the city clerk may issue any license required by this article, he or she shall require a sworn application in writing prepared in duplicate on a form to be supplied by the city clerk which shall give the following information:

(a) Name and description of applicant;

(b) Permanent home address and full local address of applicant;

(c) Identification of applicant including drivers license number, date of birth, expiration date of license and description of applicant;

(d) Identification of vehicle used by applicant including license therefor used by applicant in conducting his or her business;

(e) A brief description of the nature of the business to be carried on or the goods to be sold and the length of time such applicant has been engaged in the business;

(f) If employed, the name and address of the employer, together with credentials establishing such relationship, including the authority by the employer authorizing the applicant to represent the employer in conducting business;

(g) The length of time which business is proposed to be carried on;

(h) The place where services are to be performed or where the goods or property proposed to be sold or orders taken for the sale thereof are manufactured or produced, where such goods or products are located at the time the application is filed, and the proposed method of delivery;

(i) A state or government issued photo id;

(j) A statement as to whether or not the applicant has within two years prior to the date of the application been convicted of any crime, misdemeanor (other than minor traffic violations) or violation of any municipal law regulating peddlers, solicitors or canvassers and giving the nature of the offenses, the punishment assessed therefor, if any, and the city and state where conviction occurred.

(k) The applicant's Kansas Sales Tax number;

(l) Emergency contact information.

(m) Each representative is required to carry a copy of the license.

(Code 1991; Code 2010)

5-104.

SAME; INVESTIGATION AND ISSUANCE; NON-COUNTY RESIDENT.

(a) Upon receipt of the above application from an applicant, the city clerk shall refer the same to the Director of Public Safety who shall cause an investigation of the fact stated therein to be made within five days.

(b) If as a result of the investigation, the applicant's character or business responsibility is found to be unsatisfactory or the facts stated therein to be untrue, the chief of police shall endorse on such application his or her findings and endorse his or her disapproval of the application and the reasons for the same and shall return the application to the city clerk who then shall notify the applicant that his or her application is disapproved and that no license will be issued.

(c) If however, the investigation of such application discloses that the character and business responsibility and the facts stated in the application are satisfactory and true, the Director of Public Safety shall endorse his or her findings and approval on the application and return the same to the city clerk who shall, upon payment of the license and investigation fees prescribed, issue a license to the applicant to engage in the business described in the application. Such license shall contain the signature and seal of the issuing officer and shall show the name and address of the licensee, the date of issuance and length of time the license shall be operative, and the nature of the business involved. The city clerk shall keep a permanent record of all such licenses issued and submit a copy of such license to the Director of Public Safety. The licensee shall carry the license certificate at all times. (Code 1991)

5-105.

LICENSE FEE; TIME LIMITS; EXEMPTIONS. (a) Except as provided in subsection (c), the fee for the license required pursuant to section 5-202 shall be established by the from time to time, by Resolution of the Governing Body of the City of Augusta, Kansas.

(b) Any such license granted upon application as required hereinabove shall be limited to and effective only on the days set out in the license. Solicitation or sales by any peddler, solicitor or canvasser shall be conducted only between the hours of 8:00 a.m. and 9:00 p.m.

(c) Persons and firms not having a permanently established place of business in the city, but having a permanently established house-to-house or

wholesale business shall receive a license as required by section 5-202 upon the payment of \$100.00 for any year, and may make solicitations or sales only between the hours of 8:00 a.m. and 9:00 p.m., or upon invitation at any hour.

(d) No license fee shall be required of:

(1) Any person selling products of the farm or orchard actually produced by the seller within the State of Kansas;

(2) Any businesses, trades or occupations which are part of fairs or celebrations sponsored by the city or any other governmental subdivision, or the state, or when part of all of the expenses of the fairs or celebrations are paid for by the city, any other governmental subdivision, or the state; and

(3) Any not-for-profit organizations within Butler County.

(K.S.A. 12-1617; Code 1991; Code 2010)

5-106. RENEWAL. All licenses issued shall be subject to renewal upon a showing of compliance with sections 5-202:203 of this article within a one year period prior to the renewal date. The city clerk need not require an additional application under section 5-203 or an additional investigation and investigation fee under sections 5-205:206 unless complaints have been received of violations of the conditions under which any license has heretofore been issued. The city clerk shall not renew or extend any license where there is satisfactory evidence of any grounds for the suspension or revocation of any prior license, and the applicant shall be required to apply for a license as in the case of an original license. (Code 1991; Code 2010)

5-107. DENIAL, REVOCATION OR SUSPENSION OF LICENSE; NOTICE. (a) The city clerk or Director of Public Safety may deny any application or may revoke or suspend for a period of not to exceed 30 days any license issued under this article, for any of the following causes:

(1) Fraud, misrepresentation or false statement contained in the application for license.

(2) Fraud, misrepresentation or false statement made in the course of carrying on the business.

(3) Any violation of this article.

(4) Conducting a business as defined in section 5-201 in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the city. Notice of the denial, revocation or suspension of a license shall be given in writing to the applicant or mailed to his or her last known address and the city clerk shall set forth the grounds of such denial, revocation or suspension.

(5) Conviction of the crime of theft, larceny, fraud, embezzlement or any felony within two years prior to the application date.

(Code 1991)

5-108. APPEAL TO GOVERNING BODY. (a) Any person aggrieved by the action of the Director of Public Safety or city clerk in the denial of an application or revocation or suspension of a license as provided in this article, shall have the right of appeal to the governing body.

(b) Such appeal shall be taken by filing with the city clerk within 14 days after notice of revocation, suspension or denial of the license has been given to or

mailed to such applicant's last known address and setting forth the grounds for appeal.

(c) The governing body shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the applicant in the same manner as provided herein for notice of denial, revocation or suspension.

(d) The decision and order of the governing body on such appeal shall be final and conclusive.

(Code 1991)

5-109. REGULATIONS. (a) It shall be unlawful for any licensee to make false or fraudulent statements concerning the quality of nature of his or her goods, wares and merchandise for the purpose of inducing another to purchase the same.

(b) Licensees are required to exhibit their license at the request of any person to whom they attempt to sell their goods, wares and merchandise or take orders for future delivery of the same.

(Code 1991)

5-110. USE OF STREETS AND SIDEWALKS. Except when authorized in writing by the city clerk, no peddler, solicitor or canvasser or any other person shall have exclusive right to any location in the public streets or city right of way for the purpose of selling or soliciting sales, nor shall any person be permitted a stationary location in the public streets, nor shall any person be permitted to operate in the sidewalks and streets within the fire limits of the city or any congested area where his or her operations might impede or inconvenience the public or city right-of-way.

(Code 1991; Code 2010)

5-111. DISTURBING THE PEACE. No licensee nor any person in his or her behalf, shall use any sound device, including any loud-speaking radio or sound-amplifying system upon any of the streets, alleys, parks or other public places of the city or upon any private premises in the city where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell. Without prior approval from the city manager. (Code 1991)

ARTICLE 2. PAWNBROKERS AND PRECIOUS METAL DEALERS

5-201. DEFINITIONS. As used in this article:

(a) Pawnbroker - means any person who loans money on deposit or pledge of personal property or other valuable thing, other than intangible personal property, or who deals in the purchase of personal property on the condition of selling the same back again at a stipulated price.

Pawnbroker - does not include any person operating under the supervision of the state banking commissioner, credit union administrator or the consumer credit commissioner of this state.

(b) Person - means any individual, firm, company, partnership, corporation or association.

(c) Precious Metal - means gold, silver or platinum group metals or any used articles or other used personal property containing such metals, but shall not include un-circulated coins purchased for their numismatic value rather than their metal content or ingots or other industrial residue or by-products composed of such metals purchased from manufacturing firms.

(d) Precious Metal Dealer - means any person who engages in the business of purchasing precious metal for the purpose of reselling such metal in any form.

(Ord. 1452, Sec. 1)

5-202. LICENSE APPLICATION; FEE. (a) No person shall engage or continue in business as a pawnbroker or precious metal dealer within the city, without first obtaining a license therefor from the city clerk.

(b) Application for a license shall be in writing and shall state the full name and place of residence of the applicant. If the applicant is a partnership, the application shall contain the name and place of residence of each member thereof, or, if a corporation or association, of each officer, shareholder or member thereof. The application shall include the address of the places where the business is to be conducted, the hours and days of the week during which the applicant proposes to engage in the business of pawnbroking or dealing in precious metals at each such place, and such other information as may be necessary to determine the applicant's qualifications for a license in accordance with the provisions of this article. Each applicant also shall submit with the application:

(1) A statement that the applicant is the holder of a valid registration certificate issued by the director or revenue pursuant to K.S.A. 79-3608 for each place of business for which application for a license is made;

(2) A detailed inventory and description of all goods, wares, merchandise, precious metals or other property held in pledge or for sale at the time of the application at each place of business dated therein, indicating whether the same was received in pledge, purchased as secondhand merchandise or precious metal purchased for resale.

(c) The license application shall be in a form approved by the attorney general. Each application shall be accompanied by a fee which shall be established from time to time by Resolution of the Governing Body of the City of Augusta, Kansas. All such fees received by the city clerk shall be deposited in the city general fund. Any license or renewal thereof shall be subject to the qualifications set out in K.S.A. 16-708. (Ord. 1452, Sec. 2)

- 5-203. DISPLAY OF LICENSE. The document or other instrument evidencing the license of a pawnbroker or precious metal dealer shall state the address at which the business is to be conducted and shall state fully the name of the licensee. If the licensee is a partnership, the license shall state the names of the members thereof, and, if a corporation, the date and place of its incorporation, and the names of all shareholders thereof. Such license shall be kept conspicuously posted in the place of business of the licensee and shall not be transferable or assignable. Not more than one place of business shall be maintained under the same license, but more than one license may be issued to the same licensee upon compliance with all the provisions of this act governing the issuance of an initial license. (Ord. 1452, Sec. 3)
- 5-204. EXAMINATION OF BOOKS. Each licensee shall keep and use in the licensee's business such books, accounts and records as will enable the city to determine whether such licensee is complying with the provisions of this article. Such city may examine or cause to be examined the books, accounts, records and files used by any licensee or by any other person engaged in the business of pawnbroking or dealing in precious metals, irrespective of whether such person, acts or claims to act as principal, agent or broker, or under or without authority of this article. The duly designated representatives of the city shall have and be given free access to all such books, accounts, papers, records, files, safes and vaults. (Ord. 1452, Sec. 4)
- 5-205. REPORT OF PROPERTY. (a) On or before Tuesday of each week, every pawnbroker or precious metal dealer shall report the description of all property received in pledge or purchased as a pawnbroker or precious metal dealer during the preceding calendar week, in whatever quantity received. Such report shall include all property purchase as secondhand merchandise at wholesale, secondhand merchandise taken in for sale or possessed on consignment for sale and secondhand merchandise taken in trade. No such report need be made concerning property or merchandise acquired from another pawnbroker or precious metal dealer licensed in this state in a transaction involving the purchase or other acquisition from the other pawnbroker or precious metal dealer of the other pawnbroker's or dealer's stock in trade, or a substantial part thereof in bulk, where the other pawnbroker has made the reports required by this section with respect to such property or merchandise.
- (b) Such report shall be submitted to the director of public safety of the city.
- (c) All reports made pursuant to this section shall comply with and be submitted in accordance with the terms of any applicable city ordinances requiring such reporting.
- (d) Every precious metal dealer shall retain in the dealer's possession for a period of 10 days all precious metal purchased as a precious metal dealer, and such metal shall remain in the condition in which it was purchased. The 10-day period shall commence on the date that the director of public safety receives the report of its acquisition in compliance with this section. If the director of public safety has probable cause to believe that any precious metal reported by a dealer has been stolen, he or she may give written notice to the dealer to retain such

metal for an additional period of 15 days. Upon such notice, the dealer shall retain such metal in an unaltered condition for the additional 15 day period unless the director of public safety notifies the dealer in writing that the waiting period is terminated at an earlier time.

(e) Reports made pursuant to this section shall be available for inspection only by law enforcement officers and county and district attorney's and their employees, for law enforcement purposes.
(K.S.A. 16-715; Ord. 1452, Sec. 5)

5-206. RECORD OF TRANSACTIONS. (a) At the time of making a loan, a pawnbroker shall enter in a book kept for that purpose:

(1) The date, duration, amount and charges of every loan made by the pawnbroker;

(2) A full and accurate description of the property pledged;

(3) The name, age, residence and driver's license or other personal identification number of the pledgor.

(b) At the time of purchasing precious metal, a precious metal dealer shall enter in a book kept for that purpose:

(1) The date of the purchase;

(2) A full and accurate description of each item purchased, including any identifying letter, numbers or marks on the items; and

(3) The name, age, residence and driver's license or other personal identification number of the seller.

(c) The record required by this section shall be maintained by the pawnbroker or precious metal dealer at the pawnbroker's or dealer's place of business for not less than one year following the date of the transaction.

(Ord. 1452, Sec. 6)

5-207. PROHIBITED TRANSACTIONS. (a) No pawnbroker shall receive in pledge, or as security for any loan, transfer, service, undertaking or advantage, anything of value from any person under the age of 18 years.

(b) No precious metal dealer shall purchase any precious metal from any person under the age of 18 years.

(Ord. 1452, Sec. 7)

5-208. REQUIREMENTS IN PRECIOUS METALS TRANSACTIONS. (a) A precious metal dealer shall require of every person from whom the dealer purchases precious metal for resale:

(1) Proof of identification; and

(2) A signed statement saying that the seller is the legal owner of the precious metal or is an agent of the legal owner who is authorized to sell such metal and stating when, where and in what manner such metal was acquired by the seller.

(b) When converted or stolen property has been pawned or sold to a precious metal dealer and the pawnbroker or dealer refuses to redeliver such property to the rightful owner upon demand and presentation of a bill of sale or other proper evidence of ownership by the owner, and legal action by the rightful owner to recover the property becomes necessary, the court may assess the pawnbroker or dealer for reasonable attorneys' fees incurred by the rightful owner;

if the court finds that the pawnbroker or dealer wrongfully withheld the converted or stolen property.

(Ord. 1452, Sec. 8)

ARTICLE 3. ADULT ENTERTAINMENT ESTABLISHMENTS AND HOTELS

5-301.

DEFINITIONS. For the purpose of this chapter, the words and phrases used herein shall have the following meanings unless otherwise clearly indicated by the context:

(a) “Adult entertainment establishment” - means any commercial establishment which is an adult bookstore, adult motion picture theater, adult hotel, or adult motion picture arcade as defined herein.

(b) “Adult bookstore” or “adult video store” - means an establishment which as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

(1) Books, magazines, periodicals or other printed matter or photographs, films, motion picture, video cassettes, or video reproductions, slides, or other visual representations which depict or describe “specified” sexual activities or “specified anatomical areas”; or

(2) Instruments, devices, or paraphernalia which are designed for use in connection with “specified sexual activities.” A commercial establishment may have other principal, business purposes that do not involve the offering for sale or rental of material depicting or describing “specified sexual activities” or “specified anatomical areas” and still be categorized as “adult bookstore” or “adult video store” so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe “specified sexual activities” or “specified anatomical areas” (as defined below).

(c) “Adult motion picture theater” - means an enclosed building designed for five or more patrons used for presenting any material distinguished or characterized by an emphasis on matters depicting, or relating to “specified sexual activities” or “specified anatomical areas” (as defined below) for observation of patrons therein. The term does not include an adult hotel as defined below.

(d) “Adult motion picture arcade” - means any place at which slug or coin operated, electronically or mechanically controlled, still or motion picture machines, projector or other image producing devices are maintained to show images to five or fewer persons per machine at any time, and which presents material which is distinguished or characterized by an emphasis on depicting or describing “specified sexual activities” or “specified anatomical areas” (as defined below) for observation by patrons therein. The terms does not include an adult hotel as defined below.

(e) “Adult hotel” - means a hotel or motel wherein a substantial or significant portion of the material presented over image-producing devices within individual rooms, that are occupied by guests, are distinguished or characterized by an emphasis on matter depicting or describing “specified sexual activities” or “specified anatomical areas” (as defined below).

(f) “Employee” - means any and all persons, including independent contractors who work in, at, or render any services directly related to the operation of an adult entertainment establishment but shall not include independent contractors indirectly related to such operation such as janitorial services, construction, maintenance, pest control, and trash removal.

(g) “Specified anatomical areas” - means the following:

(1) Less than completely and opaquely covered:

- (A) Human genitals, pubic region;
- (B) Anal cleft or cleavage of the buttocks; and female breasts below a point immediately above the top of the areola;
- (2) Human male genitals in a discernible turgid state, even if completely and opaquely covered.
- (h) “Specific sexual activities” - means the following:
 - (1) Human genitals in a state of sexual stimulation or arousal;
 - (2) Acts of human masturbation, sexual intercourse or sodomy;
 - (3) Fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts with the intent to arouse or gratify the sexual desires of the entertainer, employer, or customer.
- (i) “Person” - means any person, partnership or corporation or joint venture.
- (j) “Operator” - means any person operating, conducting or maintaining an adult entertainment establishment.
- (k) “Morals charge” - includes those charges involving prostitution, pimping or promoting prostitution, indecent exposure, illegal use, possession or sale of narcotic or non-narcotic drugs, sodomy, lewd and lascivious behavior, sexual battery, indecent liberties with a child, incest, bigamy and crimes against nature.
- (l) “Diversion” or “diversion agreement” - means any formal referral of a defendant in a criminal case to a supervised performance program which upon successful completion results in the dismissal of the charges or complaint which is authorized pursuant to the laws of any city, state, or of the United States.
(Ord. 1718, Sec. 1; Code 2010)

5-302.

LICENSE REQUIRED. (a) Except as provided in subsection (e) below, from and after the effective date of the ordinance codified in this chapter, no adult entertainment establishment shall be operated or maintained in the city without first obtaining a license to operate issued by the city.

(b) A license may be issued only for one adult entertainment establishment located at a fixed certain place. Any person which desires to operate more than one adult entertainment establishment must have a license for each.

(c) No license or interest in a license may be transferred to any other person.

(d) It is unlawful for any employee or operator to knowingly work in or about, or to knowingly perform any service directly related to the operating of any unlicensed adult entertainment establishment.

(e) All existing adult entertainment establishments at the time of the passage of the ordinance codified in this chapter must submit application for a license within sixty days of the date the ordinance codified in this chapter becomes effective. If an application for such license is not made within a sixty-day period, then such existing adult entertainment establishment shall cease operation. Nothing herein shall be construed to prohibit the city’s right to refuse to grant a license to an existing adult entertainment establishment that upon application is not eligible for a license under this chapter.

(Ord. 1718, Sec. 1; Code 2010)

5-303. APPLICATION FOR LICENSE. (a) Any person desiring to secure a license shall make application in duplicate to the city clerk's office. The application shall be verified and accompanied by the license fee. Both copies of the application shall be filed with the city clerk's office.

(b) The application for a license shall be on a form provided by the city clerk's office. A partnership application and the application of any officer or director of a corporation and any stockholders holding more than five percent of the stock of a corporate application shall furnish the following information under oath:

(1) Name and address, including all aliases;

(2) The name of the owner of the premises upon which the adult entertainment establishment is to be located;

(3) The address of the adult entertainment establishment to be operated by the applicant;

(4) A statement by the applicant that he or she is familiar with the provisions of this chapter and is complying with them.

(Ord. 1718, Sec. 1; Code 2010)

5-304. LICENSE FEES. For any adult entertainment establishment the annual license fee shall be established from time to time, by Resolution of the Governing Body of the City of Augusta, Kansas. (Ord. 1718, Sec. 1; Code 2010)

5-305. LICENSE; ELIGIBILITY REQUIREMENTS. To receive a license to operate an adult entertainment establishment, applicants must meet the following standards:

(a) If the applicant is an individual (1) the applicant must be at least eighteen years of age; (2) the applicant shall not have been convicted of, or pleaded nolo contendere to, or participated in a diversion agreement after having been charged with a felony or any morals charge as defined herein in any jurisdiction within the last five years immediately preceding the date of the application.

(b) If the applicant is a partnership, joint venture, corporation or any other type of organization where two or more persons have a financial interest:

(1) All persons having a financial interest in the partnership, joint venture or any other type of organization shall be at least eighteen years of age. Financial interest in a corporation includes any officer or director of the corporation and any stockholder holding more than five percent of the stock of a corporation.

(2) No person having a financial interest in the partnership, joint venture, corporation or other type of organization shall have been convicted of, or pleaded nolo contendere to, or participated in a diversion program after having been charged with a felony or any morals charge within the immediate five years preceding the date of the application.

(Ord. 1718, Sec. 1; Code 2010)

5-306. EXAMINATION OF APPLICATION BY CITY COUNCIL. If an application for a license is in proper form and accompanied by the license fee as provided for in Section 5-504 the city council shall, after review and recommendation by the city manager, examine the application. If the applicant is fully qualified pursuant to the guidelines set forth in this chapter, the city council shall issue a license to the

applicant within thirty days of the filing of the application, if the city council fails to act on the application within thirty days after it is filed, it shall be deemed granted. If the city council denies the application within thirty days of the filing of the application, the application is deemed finally denied and the same application may not be made within one year unless there are changed circumstances. If the council denies the application, the applicant may appeal the denial pursuant to the provisions of K.S.A. 60-2101(d) and amendments thereto within thirty days of the denial. If an application is denied by the city council over thirty days after it is filed, the denial shall be of no effect except that this provision is not intended to limit the ability of the city council to revoke the license for any of the reasons in Section 5-514 of this article. (Ord. 1718, Sec. 1; Code 2010)

5-307. DISPLAY OF LICENSE REQUIRED. The license shall be displayed in a conspicuous public place within premises licensed as an adult entertainment establishment. (Ord. 1718, Sec. 1; Code 2010)

5-308. RENEWAL OF LICENSES. Every license issued pursuant to this chapter shall terminate at the expiration of one year from the date of issuance, unless revoked sooner, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application for renewal to the city clerk's office. The application for renewal shall be filed in duplicate and dated by the city clerk. An application for renewal license filed after the expiration date of the license shall not be accepted if the premises the renewal license is being sought for does not comply with the distance requirements set forth in Section 5-513. A renewal application shall in all other respects be treated as an application for an initial license. (Ord. 1718, Sec. 1; Code 2010)

5-309. GENERAL REGULATIONS. Every operator or employee of an adult entertainment establishment shall comply with the following regulations and the failure to comply with the regulations shall be unlawful:

(a) No person under the age of eighteen shall be employed in or within 200 feet of an adult entertainment establishment.

(b) No person under the age of eighteen shall be permitted to enter or remain in an adult entertainment establishment.

(c) No persons shall be knowingly employed in or within 200 feet of an adult entertainment establishment who within one year prior to employment was released from probation from a conviction for a crime of, or participated in a diversion agreement after being charged with a morals charge or a felony.

(d) Every adult entertainment establishment and every person employed by the establishment in the conduct of his or her business shall admit to any and every part of the premises designated in the license at any time any law enforcement officer or official of the city authorized by the Director of Public Safety for inspection of the premises to assure compliance with the regulations of the city. Except that this provision does not apply to rooms occupied by patrons of an adult hotel during period of such occupancy.

(e) Every adult entertainment establishment must maintain for inspection a list of all employees providing services directly related to the operation of the establishment including their date of birth, race, sex, and social security number.

(Ord. 1718, Sec. 1; Code 2010)

5-310. ALCOHOLIC BEVERAGES. No alcohol, liquor or cereal malt beverage shall be sold or consumed on the premises of an adult entertainment establishment except this provision shall not apply to rooms rented and occupied by patrons in an adult hotel. (Ord. 1718, Sec. 1; Code 2010)

5-311. PROHIBITED CONDUCT. (a) Private Rooms and Closed Booths Prohibited.

(1) Every adult motion picture arcade shall be physically arranged in such a manner that the interior portion of all viewing areas are visible from a common area of the premises and shall not be obscured by any curtains, drapes, doors or other enclosure except under the following conditions:

(i) The booth is designed for a single occupant;

(ii) The booth has a door or curtains which cannot be locked; which may extend downward not closer than fifteen inches from the floor, and which has an open space at the top so that the top of the door or curtain does not extend upward more than six feet from the floor;

(iii) Conspicuous signs state, "only one occupant per booth";

(iv) There are no openings between booths; and

(v) It can readily be determined from outside the booth that there is no more than one occupant inside the booth.

(2) No licensee, manager, employee or agent shall permit or allow two or more occupants to occupy any booth which has been designated as a booth designed for a single occupant.

(3) No person shall enter into or remain in a booth which has been designated with a sign stating "only one occupant per booth" while another occupant is in the booth.

(b) Other Prohibited Conduct. The following conduct by any person licensed under this code including managers or employees thereof or any person under the direction and control of such a licensee occurring on the premises involved is deemed contrary to the public welfare and is prohibited:

(1) Exposing or permitting any person to remain on the premises who exposes to view any portion of the female breasts below the top of the areola or any portion of the male/female pubic hair, anus, buttocks or genitals;

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

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

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

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

(ii) Touching, caressing or fondling the breasts, buttocks, anus or genitals of the actor or another;

(5) Using or permitting any person to use on the premises, any artificial device or inanimate object to depict any of the acts prohibited by subsection (4) of this section;

(6) Showing or permitting any person to show on the premises any motion picture, film, photograph, video tape, or other electronic or mechanical visual reproduction depicting:

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

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

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

(7) As used in this section, the term "premises" means the premises licensed by the city as an adult entertainment establishment, adult bookstore or adult video store and other such areas, under the control of the adult entertainment establishment, adult bookstore or adult video store licensee or his or her employee or employees, that are in such close proximity to the premises licensed as a adult entertainment establishment, adult bookstore or adult video store that activities and conduct of persons within such other areas may be viewed by persons within the premises licensed as a adult entertainment establishment, adult bookstore or adult video store by the city.

(Ord. 1718, Sec. 1; Code 2010)

5-312. COMPLIANCE WITH OTHER REGULATIONS REQUIRED. No license shall be granted for an adult entertainment establishment unless the licensee fully complies with the health regulations, building codes, zoning ordinances, fire prevention and safety regulations of the city. (Ord. 1718, Sec. 1; Code 2010)

5-313. DISTANCE REQUIREMENTS. (a) No license shall be granted for an adult entertainment establishment or adult hotel which is located within one thousand feet of a church, public or parochial school, public park, public library, residential zoning district, erotic dance studio or any other adult entertainment establishment or adult hotel.

(b) Provided, however, that adult entertainment establishment or adult hotel licenses may be issued for all establishments engaged in the business of adult entertainment establishments or adult hotels as of the date of enactment of the ordinance codified in this chapter, that are located within one thousand feet of a church, public park, public or parochial school, residential zoning district, erotic dance studio or other adult entertainment establishment or adult hotel, so long as the premises are used or held for use as an adult entertainment establishment or adult hotel. This distance is to be measured from the nearest property line of the residential zoning district, church, public or parochial school, public park or other adult entertainment establishment or adult hotel to the nearest property line of the premises on which the adult entertainment establishment or adult hotel is located or of any parking lot designated to be used by the patrons of such an establishment. Provided, however, that:

(1) Such license, once issued, shall not be renewed to any person or premises not identified in the original license; further, that should such a licensed establishment cease to be used for such purpose for a period of

ninety days or more, then and in that event, no new adult entertainment establishment or adult hotel license shall be issued for the establishment except as specifically provided by this chapter.

(2) Should a licensed establishment cease to be used for such purpose for a period of ninety days or more, then and in that event the existing license shall be deemed to expire at twelve a.m., noon, on the 91st calendar day of non-use. In no event shall this provision be construed to extend the term of a license issued under this section. Should a license expire pursuant to this provision, the licensee may make application of the license collector for a refund of the portion of license fee attributed to the remaining period of the license. All such applications must be filed at least thirty days prior to the end of the original term of the license. No refunds shall be made for a period of time less than thirty days.

Periods of time during which such establishments are being remodeled or repaired because of normal wear and tear, desire to improve the quality of the premises, or damage caused by fire or natural disaster such as floods or windstorms, shall not be included in computing the above ninety-day period, provided, that any remodeling or repair must be commenced within ninety days after closure of any structure and completed within a reasonable time thereafter. The chief of police of the Augusta safety department shall be notified in writing within thirty days of closing of such establishment for remodeling or repair, such notice to state the date of commencement and estimated or actual completion of remodeling or repair. Any establishment shall not be relicensed and shall cease to be used as an adult entertainment establishment or adult hotel if repair is not commenced within ninety days after such closure, if such repairs are not completed within a reasonable time thereafter and/or if the chief of police is not notified within the thirty-day time period.

(Ord. 1718, Sec. 1; Code 2010)

5-314.

SUSPENSION AND REVOCATION OF LICENSE. (a) The Director of Public Safety after actual service of ten days* written notice to the person holding a license for an adult entertainment establishment or adult hotel pursuant to this title, shall have the authority to suspend such license for a period not to exceed thirty days, for any violation of the provisions of this chapter or other ordinances or statutes regulating conduct in adult entertainment establishments or adult hotels; provided, however that the licensee may appeal such order of suspension to the city council within seven days from the date of such order.

(b) The city council after actual service of ten days* written notice to the person holding a license for an adult entertainment establishment, pursuant to this title, may cause to be suspended for a period of not more than thirty days or may permanently revoke such license for the following reasons:

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

(2) If the licensee, manager, operator, or employee has violated any of the provisions of this chapter;

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

(4) The nonpayment of any license fees payable hereunder;

(5) For knowingly employing a person who has been, within one year prior to the date of employment, or who during the period of employment is adjudged guilty of or participated in a diversion agreement after being charged with a felony or a morals charge, or within one year prior to employment has been released from probation from a felony or a morals charge.

Provided, that if any of the grounds for revocation herein enumerated are violated by an employee, a manager, or agent, then in absence of proof of knowledge by the licensee, there shall be no revocation, except as herein provided, but there may be a suspension of not more than thirty days; it being further provided that in the event any licensee is subjected to more than two such suspensions in any twelve-month period, his or her license may be revoked on the third such violation.

Upon appeal taken from an order of suspension or revocation the court may stay the order of suspension or revocation upon a showing by the appellant and a finding by the court that a substantial likelihood exists that the movant will eventually prevail on the merits and that the movant will suffer irreparable injury unless the stay is granted. If there is no stay by the court then the order of suspension or revocation shall not be suspended during the pendency of any such appeal. In case of the revocation of a license of any licensee, no new license shall be issued to such person or to any person acting for or on his or her behalf, for a period of six months after the revocation becomes effective.

(Ord. 1718, Sec. 1; Code 2010)

5-315. PENALTY. Any person who violates any provision of this article is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed five hundred dollars or by imprisonment for not more than ninety days, or by both such fine and imprisonment. (Ord. 1718, Sec. 1; Code 2010)

5-316. INJUNCTIONS. Section 5-513 of this article is adopted as part of the zoning laws and regulations of the city of Augusta, Kansas. as though said section was fully set forth in the Zoning Regulations of this city. The city attorney may bring an action in the District Court of the Thirteenth Judicial District or any other appropriate court having jurisdiction to enjoin the violation of said section of this code. (Ord. 1718, Sec. 1; Code 2010)

5-317. INVALIDITY OF PART. Should any court declare any section, clause or provision of the article to be unconstitutional, such decision shall affect only such section, clause or provision so declared unconstitutional and shall not affect any other section, clause or provision of this chapter. (Ord. 1718, Sec. 1; Code 2010)

ARTICLE 4. ESCORT SERVICES

5-401. DEFINITIONS. The following words, as used in this chapter, shall have the meaning ascribed to them in this section:

(a) "Consideration" - is money or money's worth.

(b) "Crimes involving moral turpitude" - includes charges of prostitution, patronizing a prostitute, promoting prostitution, indecent exposure, lewd and lascivious behavior, sodomy, promoting sodomy for hire, patronizing a person offering sodomy for hire, sexual battery, loitering for the purposes of solicitation, indecent liberties with a child, incest, adultery, bigamy, promoting obscenity, promoting obscenity to minors, displaying material harmful to minors, and possession, sale or distribution of any illegal drug.

(c) "Employee" - means any and all persons including independent contractors who work in, at, or render any services to, the patrons of an escort service, or who render any services directly related to the operation of an escort service.

(d) "Escort" - is any person who is held out to the public as available for hire and who, for monetary consideration in the form of a fee, commission or salary, consorts with or accompanies, or who offers for monetary consideration, to consort with or accompany another or others to or about social affairs, places of entertainment or amusement within any place of public resort or within any private quarters.

(e) "Escort service" - is any person, as defined herein, which for a fee, commission, profit, reward, payment or other monetary consideration furnishes, refers, or offers to furnish or refer escorts, provides or offers to introduce patrons to escorts, or arranges for escorts to accompany patrons to or about social affairs, places of entertainment or amusement, about any place of public resort or within any private quarters.

(f) "Escort service runner" - is any person, not an escort, who for a salary, fee, hire, reward or profit, as the agent for either an escort service or a patron, contacts or meets with escort patrons or escort services at any location other than the established open office, as defined hereunder, whether that person is employed by the escort service or any business, or is self-employed.

(g) "Licensee" - is a person who is the holder of a valid license under this chapter. A licensee includes an agent, servant, employee or other person while acting on behalf of that licensee whenever such licensee is or would be prohibited from doing or performing an act or acts under this title.

(h) "Offer to provide acts of sexual conduct" - is to offer, propose or solicit to provide sexual conduct to a patron. Such definitions include all conversations, advertisements and acts which would lead a reasonably prudent person to conclude that such acts were to be provided.

(i) "Open office" - is an office at the licensed escort service address from which escort business is transacted. To qualify as an open office it is required that:

(1) Business hours be established and posted, that the office be open to the public and patrons or prospective patrons during such business hours, and that the office be accessible to business invitees, license officials and law enforcement officers through a security system during all other hours that escorts are working;

(2) The office be managed by the owner or management employee of the owner having authority to bind the service to escort and patron contracts, and adjust patron and consumer complaints;

(3) All telephone lines and numbers listed to the escort service or advertised as escort service numbers terminate at the open office and at no other location;

(4) An index of all employees and escorts be kept in the open office, along with copies of the licenses of those employed to work as escorts or escort service runners, and said index shall be open to inspection at the request of any law enforcement officer who is on official duty;

(5) All business records be kept in the open office, including records of escort calls and referrals, stating the name and driver's license number (or other form of picture identification) of the patron, as well as the state of issuance of the driver's license (or other picture identification). Such records shall also include the date and time of referral, name of the escort who accompanied the patron, whether the referral resulted in a contract, and the total fee received from the patron, if any. The business records described in this section shall be subject to inspection at the request of any law enforcement officer who is making said request for inspection pursuant to said officer's lawful duties as a law enforcement officer. The refusal of a licensee to allow such an inspection shall not be a criminal violation of the ordinance codified in this chapter nor shall it be considered grounds for suspending, revoking or otherwise taking punitive measures or action against the licensee or the escort service's license. However, in the event of such a refusal, such an inspection may be conducted upon the issuance of a valid search warrant, issued under the authority of K.S.A. 22-2501, and amendments thereto;

(6) All of the business records required to be kept and maintained by an escort service licensed under the ordinance codified in this chapter shall be retained by the escort service for a minimum period of one year, and shall be subject to verification on a quarterly basis by the Director of Public safety or his/her duly authorized representative upon request. This quarterly examination of the records shall be permitted solely for the purpose of verifying that such records are being kept, and shall not be for the purpose of gathering information. Refusal by the licensee to allow examination of such records for the sole purpose of verifying that the licensee is in compliance with the record keeping requirements of the ordinance codified in this chapter shall not be deemed to be a criminal violation, however, if the refusal is unreasonable it may result in revocation or suspension of the escort service's license.

(j) "Operator" - is any person operating, maintaining or conducting the business of an escort service.

(k) "Patron" - is a customer or any person who contracts with an escort service for the purpose of hiring an escort, or for monetary consideration contracts with, or hires an escort.

(l) "Person" - is any individual, firm, corporation, partnership, limited partnership, joint venture or association of any kind.

(m) "Service-oriented escort" - is an escort who:

(1) Operates from an open office;

- (2) Does not employ or use an escort service runner;
- (3) Does not advertise that sexual conduct will be provided, or work for an escort service which so advertises; and
- (4) Does not offer, solicit, agree to provide or provide sexual conduct.

(n) “Service-oriented escort service” - is an escort service which:

- (1) Maintains an open office at an established place of business;
- (2) Does not use an escort service runner;
- (3) Does not advertise, order, solicit, agree to provide or provide sexual conduct to a patron; and
- (4) Employs or provides only escorts who are licensed pursuant to this chapter.

(o) “Sexual conduct” - means the engaging in or the commission of an act of sexual intercourse, oral-genital contact, anal copulation, or the touching of the sexual organs, pubic region, buttocks or female breast of a person for the purpose of arousing or gratifying the sexual desire of another person.

(p) “Sexual gratification” - is sexual conduct as defined in subsection (o) above.

(q) “Sexual stimulation” - is to excite or arouse the prurient interest of another, or to offer or solicit acts of sexual conduct as defined in subsection (o) above.

(r) “Sexually oriented acts” - are sexual conduct as defined in subsection (o) above.

(s) “Sexually oriented escort” - is an escort who:

- (1) Employs as an employee, agent or independent contractor, an escort service runner;
- (2) Works for, as an agent, employee or independent contractor, or is referred to a patron by a sexually oriented escort service;
- (3) Advertises that sexual conduct will be provided, or as an agent, employee or independent contractor, works for or is referred to a patron by an escort service which so advertises;
- (4) Solicits, offers, agrees to provide or does provide acts of sexual conduct to an escort patron;
- (5) Accepts an offer or solicitation to provide acts of sexual conduct for a fee in addition to the fee charged by the escort service.

(t) “Sexually oriented escort service” - is an escort service which:

- (1) Engages in advertising to make the prospective patron believe that acts of sexual conduct or sexual stimulation will be provided;
- (2) Uses as escorts persons known to have violated the laws regarding felonies or crimes of moral turpitude as defined herein;
- (3) Does not maintain an open office;
- (4) Employs as an employee, agent or independent contractor, or uses an escort service runner;
- (5) Advertises that sexual conduct will be provided or that escorts which provide such sexual conduct will be provided, referred to introduced to a patron; or
- (6) Solicits, offers or agrees to provide or does provide acts of sexual conduct to a patron; or

- (7) Employs, contracts with, provides or refers escorts who do not possess escort licenses as required pursuant to this chapter;
- (8) Does not deliver contracts to every patron or customer; or
- (9) Employs, contracts with, refers, or provides to a patron a sexually oriented escort.

(Ord. 1718, Sec. 2; Code 2010)

5-402. LICENSE REQUIRED. It is unlawful within the city limits for any person, whether as principal, officer, agent, servant or employee to conduct, manage, operate, maintain or perform services as an escort service without having first obtained a license to do so as required by this chapter. (Ord. 1718, Sec. 2; Code 2010)

5-403. SEXUALLY ORIENTED ESCORT SERVICES UNLAWFUL. It is unlawful within the city limits for any person, whether as principal, officer, agent, servant or employee to conduct, manage, operate, maintain or perform services as a sexually oriented escort service regardless of license. (Ord. 1718, Sec. 2; Code 2010)

5-404. LICENSE EXCLUSIVE TO PERSON AND PREMISES ISSUED. (a) The license required pursuant to this chapter shall be issued for one premises or one person. The address of the premises for which the license is requested and the name of the person who will be the licensee shall be clearly stated in all applications and renewal requests.

(b) Licenses issued hereunder may not be transferred from one premises to another or from one person to another, and shall be renewable only if the renewal license is to be issued to the same person. Within thirty days after the sale or transfer of any interest in an escort service, any license heretofore issued shall be null and void. A new application shall be made by any person desiring to own or operate the escort service.

(c) No escort service shall be operated under any name or conducted under any designation not specified in the license for that business.

(Ord. 1718, Sec. 2; Code 2010)

5-405. LICENSE FEES. For every escort service there shall be an annual license fee established from time to time, by Resolution of the Governing Body of the City of Augusta, Kansas. This fee shall accompany all initial license applications and all renewal requests, and a license shall not be issued until the fee is paid in full. (Ord. 1718, Sec. 2; Code 2010)

5-406. LICENSE RENEWAL. The term of a license issued pursuant to the provisions of this chapter is one year. Any escort service license which has not been suspended or revoked may be renewed for a period of one year on written application to the city clerk*s office. Such application shall be under oath on a form provided by the city clerk, and shall contain all the information required by Section 5-609, and any amendments thereto.

Application for a license renewal must be made not later than thirty days prior to the date of expiration of the license. (Ord. 1718, Sec. 2; Code 2010)

- 5-407. APPLICABILITY OF REGULATIONS TO EXISTING BUSINESSES. The provisions of this chapter shall be applicable to all businesses participating in the activities described in this chapter, regardless of when established. All existing escort services at the time of the passage of the ordinance codified in this chapter must submit an application for a license within sixty days of the effective date of the ordinance codified in this chapter. (Ord. 1718, Sec. 2; Code 2010)
- 5-408. DISPLAY OF LICENSE REQUIRED. The license issued pursuant to the requirements of this chapter shall be displayed in a conspicuous public place within the premises licensed as an escort service. (Ord. 1718, Sec. 2; Code 2010)
- 5-409. APPLICATION FOR ESCORT SERVICE LICENSE. (a) Any person desiring to obtain a license to operate an escort service shall make written application in duplicate to the city clerk's office. The application shall be verified and accompanied by the license fee. Both copies of the application shall be filed with the city clerk's office.
- (b) The application shall be on a form provided by the city. All applicants shall provide the following information under oath:
- (1) The full true name and any other aliases used by the applicant;
 - (2) The present address and telephone number of the residence and business of the applicant;
 - (3) The proposed address and name or names of the escort service for which a license is sought, and the hours that the escort service will be open to the public;
 - (4) The name of the owner of the premises upon which the escort service is to be located;
 - (5) Written proof that the applicant is at least eighteen years of age;
 - (6) All prior criminal convictions excepting minor traffic offenses, and the date and locations of such convictions;
 - (7) Two photographs of the applicant two inches by two inches in size, taken within thirty days immediately preceding the date of application. One photograph will be sent to the director of public safety and one photograph shall be affixed to the license;
 - (8) Fingerprints of the applicant;
 - (9) Information as to whether such individual or business has ever been refused any similar license or permit, or has had any similar license or permit issued to such individual or business in Augusta or elsewhere revoked or suspended, and the reason or reasons therefor; and
 - (10) A statement by the applicant that he or she is familiar with the provisions of this chapter and is complying and will comply with them.
- (c) If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its Articles of Incorporation or Charter, together with the state and date of incorporation, the names, residential addresses, and dates of birth of each of its current officers and directors, and each stockholder holding more than five percent of the stock in the corporation. The corporation applicant shall designate one of its officers to act as its responsible managing officer. Such designated person shall complete and sign all application forms and provide all information required in subsection (b) of this section, but only one application fee shall be charged.

(d) If the applicant is a partnership, the application shall set forth the names, residential addresses, and dates of birth of each of the partners, including limited partners. If the applicant is a limited partnership, it shall furnish a copy of its certificate of limited partnership. If one or more of the partners is a corporation, the provisions of subsection (c) of this section pertaining to corporations shall apply. The partnership or limited partnership applicant shall designate one of its partners to act as its responsible managing partner. Such designated person shall complete and sign all application forms and provide all information required in subsection (b) of this section, but only one application fee shall be charged.
(Ord. 1718, Sec. 2; Code 2010)

5-410. LICENSE; ELIGIBILITY REQUIREMENTS. To receive a license to operate an escort service, applicants must meet the following standards:

(a) If the applicant is an individual:

- (1) The required fees must have been paid;
- (2) The application must conform in all respects to the provisions of this chapter;
- (3) The applicant must not have knowingly made a false or misleading statement of a material fact in the application;
- (4) The applicant must be at least eighteen years of age;
- (5) The applicant must not, within five years immediately preceding the date of the filing of the application, have been convicted of or pleaded nolo contendere in any jurisdiction to a felony, or any crime involving moral turpitude as defined in this chapter. The term "conviction" shall include being placed on diversion;

(6) The applicant must not have had a similar type of license in any jurisdiction previously suspended or revoked for good cause within five years immediately preceding the date of the filing of the application;

(7) The operation of the business as proposed, if permitted, must comply with all applicable building, fire, health and zoning laws;

(b) If the applicant is a partnership, joint venture, corporation or any other type of organization where two or more persons have a financial interest:

(1) All persons having a financial interest in the partnership, joint venture or any other type or organization shall be at least eighteen years of age. Financial interest in a corporation includes any officer or director of the corporation and any stockholder holding more than five percent of the stock of a corporation.

(2) No person having a financial interest in the partnership, joint venture, corporation or other type of organization shall, in any jurisdiction, have been convicted of, pled nob contendere to, or participated in a diversion program, after having been charged with a felony or any crime involving moral turpitude within the immediate five years preceding the date of the application.

(Ord. 1718, Sec. 2; Code 2010)

5-411. EXAMINATION OF APPLICATION BY CITY COUNCIL. If an application for a license is in proper form and accompanied by the license fee as provided for in Section 5-605, the city council shall, after review and recommendation by the city manager, examine the application. If the applicant is fully qualified pursuant to the

guidelines set forth in this chapter, the city council shall issue a license to the applicant within thirty days from the date of the filing of the application. If the city council fails to act on the application within thirty days after it is filed, it shall be deemed granted. If the city council denies the application within thirty days of the filing of the application, the application is deemed finally denied and the same application may not be made within one year unless there are changed circumstances. If the council denies the application, the applicant may appeal the denial pursuant to the provisions of K.S.A. 60-2101(d), and amendments thereto, within thirty days of the denial. If an application is denied by the city council over thirty days after it is filed, the denial shall be of no effect except that this provision is not intended to limit the ability of the city council to revoke the license for any of the reasons in Section 5-612 of this code. (Ord. 1718, Sec. 2; Code 2010)

5-412.

SUSPENSION OR REVOCATION OF ESCORT SERVICE LICENSE. (a)

Any license issued for the operation of an escort service pursuant to this chapter may be suspended or permanently revoked upon the following grounds:

(1) The licensee has fraudulently obtained the license by giving false information in the application therefor, or has otherwise made a material misrepresentation of fact in the application;

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

(3) The licensee, any employee, agent, manager, operator or any other person connected or associated with the license as a partner, director, officer, or stockholder has offered or agreed to or rendered the service of a sexually oriented escort;

(4) The licensee, employee, agent, manager, operator or any other person connected or associated with the license as a partner, director, officer or stockholder has otherwise violated any of the provisions of this chapter;

(5) The nonpayment of any license fees payable hereunder;

(6) The licensee has been convicted, subsequent to the issuance of any license of a crime which is either a felony or a crime involving moral turpitude as defined herein;

(7) For employing a person who has been, within three years prior the date of employment, or who during the period of employment is adjudged guilty of a felony or a crime involving moral turpitude, as defined herein, or within three years prior to employment has been released from probation from a conviction of a felony or a crime involving moral turpitude as defined herein. It is further provided that the term "adjudged guilty" shall include being placed on diversion. It shall be an absolute defense to an alleged violation of this section that the escort employed by the escort service was a licensed escort under the ordinance codified in this chapter;

(8) The licensee is a corporation and is not or is no longer qualified to transact business in the state of Kansas.(b) To revoke a license, the director of public safety, upon five days* written notice to the licensee, shall have the authority to suspend such license for a period not to exceed thirty days. The cause for such revocation shall be set forth in the notice, and the licensee may appeal such an order of suspension in writing to the city council within seven days from the date of such order.

(c) The city council, upon five days written notice to the licensee, permanently revoke or cause to be suspended such license for any of the reasons enumerated in subsection (a) above. Provided, that if any of the grounds for revocation herein enumerated are violated by an employee, manager, operator or agent, then in the absence of proof of knowledge by the licensee, there shall be no revocation, but there may be a suspension of not more than thirty days; it being further provided that in the event any licensee is subjected to more than two such suspensions in any twelve-month period, his or her license may be revoked on the third such violation.

(d) An appeal taken from an order of suspension or revocation shall not suspend the order of revocation or suspension during the pendency of such appeal. In case of the revocation of any license, no new license shall be issued to such licensee or to any person acting for or on his or her behalf for a period of three years.

(e) For the purposes of subsections (b) and (c) above, written notice shall be deemed sufficient upon the mailing of the notice to the most recent address on the application of the licensee on file in the office of the city clerk.
(Ord. 1718, Sec. 2; Code 2010)

5-413. COMPLIANCE WITH OTHER REGULATIONS REQUIRED. No license shall be granted for an escort service until the health code, building code, zoning ordinances, fire prevention and safety regulations of the city are fully complied with, and it is unlawful and a violation of this chapter to maintain or conduct an escort service without being in compliance, at all times, with all health code, building code, zoning ordinance, fire prevention and safety regulations of the city.
(Ord. 1718, Sec. 2; Code 2010)

5-414. ESCORT SERVICE DUTIES. (a) The escort service shall provide to each patron a written contract and receipt of payment for services. The contract shall clearly state the type of services to be performed, the length of time such services shall be performed, the total amount of money such services shall cost the patron, and any special terms or conditions relating to the services to be performed.

(b) The escort service shall maintain an open office at the licensed location. The address of that office shall be included in all patron contracts and published advertisements. Private rooms or booths where the patron may meet with the escort shall not be provided at the open office or at any other location by the escort service.

(c) The escort service, in terms of licensing consequences, is responsible and liable for the acts of all its employees and subcontractors including, but not limited to, telephone receptionists and escorts who are referred by that service while the escort is with the patron.

(d) The escort service shall commence business from an open office within thirty days after issuance of the license. In the event an escort service licensee shall not commence business in an open office within thirty days after issuance of a license, or shall discontinue business or close the open office for a period of thirty days after issuance of a license, or shall discontinue business or close the open office for a period of thirty days, such license shall terminate and be revoked automatically without action by the director of public safety or city council.

(e) Every owner, operator, responsible managing employee, manager, or anyone in control of an escort service shall maintain a daily register, approved as to form by the department of public safety, containing the following information:

(1) The identification of all employees employed by such establishment, together with a copy of the escort license for those employees working as escorts;

(2) The hours of employment of each employee for each day; and

(3) The names of all patrons, including their true full names, driver's license number and state of issuance (or some other form of picture identification), hours of employment of the escort service, name of the escort or other employees providing services to this particular patron, the location where escort services were rendered, and the fee charged for such services. The daily register described in this section shall be subject to inspection at the request of any law enforcement officer who is making said request for inspection pursuant to said officer's lawful duties as a law enforcement officer who is making said request for inspection pursuant to said officer's lawful duties as a law enforcement officer. The refusal of a licensee to allow such an inspection shall not be a criminal violation of the ordinance codified in this chapter nor shall it be considered grounds for suspending, revoking or otherwise taking punitive measures or action against the licensee or the escort service's license. However, in the event of such a refusal, an inspection may be conducted upon the issuance of a valid search warrant, issued under the authority of K.S.A. 22-2501, and amendments thereto. The daily register described in this section shall be kept and maintained at the open office or licensed premises for a period of one year.

(f) Any changes in information required to be submitted by this chapter must be given to the city clerk's office in writing within ten days of any such change.

(Ord. 1718, Sec. 2; Code 2010)

5-415. PROHIBITED ACTIVITIES. (a) It is unlawful for a licensee to provide escort services as described in this chapter to individuals under eighteen years of age unless written authorization by a parent or legal guardian is issued to the escort when acting as such.

(b) It is unlawful within the city limits for an escort service to advertise or hold out to the public the availability of an escort or escort service without obtaining a license therefor as provided in this chapter. Whether the actual business of the escorts or the escort service is performed, the escort service license number must be prominently displayed in such advertisements. (Ord. 1718, Sec. 2; Code 2010)

5-416. ESCORT/ESCORT SERVICE RUNNER; LICENSE REQUIRED. (a) It is unlawful for any person within the city limits to:

(1) Work, perform services, or act as an escort or escort service runner as defined in this article without a license issued pursuant to the provisions of this article;

(2) Work, perform services, or act as an escort or escort service runner unless employed by a licensed escort service;

(3) Work, perform services, or act as a sexually oriented escort, or work as an escort service runner for a sexually oriented escort service, regardless of license.

(b) Such person, when providing services or working as an escort or escort service runner, shall carry the license required by subsection (a)(1) of this section upon their person and display the license upon request of any law enforcement official. Failure to display such license upon demand is a violation of this article punishable as set forth in Section 5-621 of this Article.
(Ord. 1718, Sec. 2; Code 2010)

5-417. ESCORT/ESCORT SERVICE RUNNER; LICENSE APPLICATION, RENEWAL.

(a) Any person desiring an escort or escort service runner's license shall make written application in duplicate to the city clerk's office on a form provided by the city. The application shall be verified and accompanied by the license fee. Both copies of the application shall be filed with the city clerk's office and shall provide the following information under oath:

- (1) The full true name and any other aliases used by applicant;
- (2) The present residential address and telephone number of applicant;
- (3) Written proof that the applicant is at least eighteen years of age;
- (4) Two photographs, two inches by two inches in size, taken within the last thirty days immediately preceding the date of application. One photograph shall be sent to the chief of police and one photograph shall be affixed to the license;
- (5) All criminal convictions, except for minor traffic offenses, and the dates and places of such convictions;
- (6) Fingerprints of the applicant.

(b) All persons working or providing services as escorts or escort service runners at the time of the passage of the ordinance codified in this chapter must submit an application for an escort or escort service runner's license within thirty days of the date the same becomes effective.

(c) Every escort or escort service runner's license issued pursuant to this chapter will expire one year from the date of issuance and must be renewed before working or performing services as an escort or escort service runner in the following year. Application for renewal must be made to the city clerk no later than thirty days prior to the date of expiration for the escort or escort service runner's license, and must be accompanied by the license fee provided in subsection (c) of this section.

(d) A license to act as an escort or escort service runner does not authorize the operation of an escort service. Any person obtaining a license to act as an escort or escort service runner who desires to operate an escort service must separately apply for a permit therefor. A person who applies for a permit to operate an escort service and who desires to act as an escort or escort service runner within said business, who pays the fee required by Section 5-605 of this chapter, shall not be required to pay the fee required in this section.
(Ord. 1718, Sec. 2; Code 2010)

5-418. ESCORT/ESCORT SERVICE RUNNER; LICENSE FEES. There shall be an annual fee established from time to time by Resolution of the Governing Body of the City of Augusta, Kansas for an escort or escort service runner's license and such fee shall accompany each application submitted. (Ord. 1718, Sec. 2; Code 2010)

5-419. ESCORT/ESCORT SERVICE RUNNER; LICENSE ELIGIBILITY. (a) A copy of each application for an escort or escort service runner's license shall be forwarded to the director of public safety for investigation of the applicant, It shall be the duty of the director of public safety to investigate such applicant to determine whether he or she is qualified under the provisions of this chapter. The director of public safety shall report to the city clerk not later than ten working days after receipt of the application. The city clerk shall issue or deny the license to work or perform services as an escort or escort service runner based upon the results of the police investigation. Any applicant who has been denied the issuance of an escort or escort service runner's license shall have a right of appeal to the city council, and then pursuant to the provisions of K.S.A. 60-2101(d), and any amendments thereto.

(b) No license to work or perform services as an escort or an escort service runner shall be issued to:

(1) Any person who has not attained eighteen years of age;

(2) Any person who, within three years immediately preceding the date of making application, has been convicted or released from probation or parole for conviction of any crime involving moral turpitude, as defined in this chapter, and the term "conviction," as used herein, includes being placed on diversion;

(3) Any person who has knowingly made a false or misleading statement of a material fact or omission of a material fact in their application for an escort or escort service runner's license.

(Ord. 1718, Sec. 2; Code 2010)

5-420. SUSPENSION OR REVOCATION OF AN ESCORT/ESCORT SERVICE RUNNER'S LICENSE. (a) The director of public safety, upon five days written notice to the person holding an escort or escort service runner's license, shall have the authority to suspend such license for a period not to exceed thirty days, for any of the following reasons:

(1) False information or data was given, or material facts were omitted from the person's application;

(2) The fee required to be paid by this chapter is not paid;

(3) The licensee becomes ineligible to obtain a license;

(4) The licensee is adjudged to have violated the regulations of any of the provisions of this chapter;

(5) Subsequent to obtaining an escort or escort service runner's license, the licensee has been convicted in any jurisdiction of a crime involving moral turpitude, as defined in this chapter, and providing that the term "convicted" shall also include being placed on diversion.

(b) The licensee may appeal such order of suspension to the city council within seven days from the date of such order.

(c) The city council, upon five days* written notice to the person holding an escort or escort service runner*s license may permanently revoke or cause to be suspended for a period of not more than thirty days such license for any of the reasons enumerated in subsection (a) of this section.

(d) Any appeal taken from an order of revocation or suspension shall not suspend the order during the pendency of any such appeal. In the case of the revocation of an escort or escort service runner*s license, no new license shall be issued to such person for a period of three years after the revocation becomes effective.

(e) For the purposes of subsections (a) and (b) of this section, written notice shall be deemed sufficient upon the mailing of the notice to the most recent address on the application of the licensee on file in the office of the city clerk.
(Ord. 1718, Sec. 2; Code 2010)

5-421. INVALIDITY OF PART. Should any court declare any section, clause or provision of this chapter to be unconstitutional, such decision shall affect only such section, clause or provision so declared unconstitutional and shall not affect any other remaining section, clause or provision of this chapter. (Ord. 1718, Sec. 2; Code 2010)

CHAPTER VI. ELECTIONS

Article 1. City Elections

Article 2. Wards

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 1991)

6-102. HOURS OF VOTING. At all city elections the polls shall be open at 7:00 a.m. and close at 7:00 p.m., unless different hours are set and publicly announced by the county election officer. (K.S.A. 25-2111, 26-206; Code 1991)

ARTICLE 2. WARDS

6-201. FIRST WARD; ESTABLISHED. There is hereby established a ward in the City of Augusta, Kansas, to be hereinafter known as "The First Ward", comprised and bounded as follows: within the corporate limits of the City of Augusta, Kansas, lying South of the following line:

Commencing at the intersection of the West city limits line of the City of Augusta, Kansas, with the center of West Kelly Avenue in said city; thence proceeding East down the centerline of West Kelly Avenue to the intersection of the centerline of Money Avenue; thence proceeding South down the centerline of Money Avenue to the intersection of the centerline of the intersection of West Harrington Street; thence proceeding East down the centerline of West Harrington Street to the centerline of the intersection of State Street; thence proceeding South down the centerline of State Street to the intersection of the centerline of Columbia Street; thence proceeding East along the centerline of Columbia Street to the intersection of the centerline of Ohio Street; thence proceeding South down the centerline of Ohio Street to the intersection of the centerline of Broadway Avenue; thence proceeding East along the centerline of Broadway Avenue to the Burlington Northern Santa Fe Railroad North right-of-way line; thence proceeding North along the Burlington Northern and Santa Fe Railroad right-of-way line to the intersection of the North line of the Augusta Industrial Park; thence East along the North line of the Augusta Industrial Park to the intersection of the centerline of Custer Lane; thence South along the centerline of Custer Lane to the North line of the South Half (5 1/2) of the Southeast Quarter (SE/4) of Section 23 Township 27 South Range 4 East; thence East along said North line of the South Half (5 1/2) of the Southeast Quarter (SE/4) to the intersection of the East city limits line of the City of Augusta, Kansas.
(Ord. 1895, Sec. 2; Code 2010)

6-202. SECOND WARD; ESTABLISHED. There is hereby established a ward in the City of Augusta, Kansas, to be hereinafter known as "The Second Ward", and bounded and comprised as follows:

Commencing at the intersection of the centerline West Kelly Avenue and Money Avenue in the City of Augusta, Kansas; thence proceeding East down the centerline of West Kelly Avenue to the intersection of the centerline of Dearborn Street and West Kelly Avenue; thence proceeding East along East Kelly Avenue to the centerline of the intersection of Custer Lane; thence proceeding North along the centerline of Custer Lane to the intersection of East Belmont Street; thence proceeding East along the centerline of East Belmont Street to the East city limits of the City of Augusta, Kansas; thence proceeding South along the East city limits of the City of Augusta, Kansas to the North line of the South Half (S 1/2) of the Southeast Quarter (SE/4) of Section 23 Township 27 South Range 4 East; thence West along said North line of the South Half (S 1/2) of the Southeast Quarter (SE/4) to the intersection of the centerline of Custer Lane; thence North along the centerline of Custer Lane to the North line of the Augusta Industrial Park; thence proceeding West along the North line of Augusta Industrial Park to the Burlington Northern Santa Fe Railroad North right-of-way line; thence proceeding South along the Burlington Northern and Santa Fe Railroad right-of-way line to the intersection of the centerline of Broadway Avenue to the centerline of the

intersection of Ohio Street; thence proceeding North along the centerline of Ohio Street to the centerline of the intersection of Columbia Street; thence proceeding West along the centerline of Columbia to the intersection of the centerline of State Street; thence proceeding North along the centerline of State Street to the centerline of the intersection of West Harrington Street; thence proceeding West along the centerline of the intersection of West Harrington Street to the centerline of the intersection of Money Avenue; thence proceeding North along the centerline of Money Avenue to the point of beginning.
(Ord. 1895, Sec. 3; Code 2010)

6-203. THIRD WARD; ESTABLISHED. There is hereby established a Ward in the City of Augusta, Kansas, to be hereinafter known as the "Third Ward", and bounded and comprised as follows:

Commencing at the intersection of the centerline West Kelly Avenue and Money Avenue in the City of Augusta, Kansas; thence proceeding East down the centerline of West Kelly Avenue to the intersection of the centerline of West Kelly Avenue and Dearborn Street; thence proceeding East down the centerline of East Kelly Avenue to the intersection of the centerline of East Kelly Avenue and Ohio Street; thence proceeding North along the centerline of Ohio Street to the North city limits line of the City of Augusta, Kansas; thence proceeding in a Southwesterly direction along the city limit line of the City of Augusta, Kansas, to the point of beginning.
(Ord. 1895, Sec. 4; Code 2010)

6-204. FOURTH WARD; ESTABLISHED. There is hereby established a Ward, in the City of Augusta, Kansas, to be hereinafter known as "The Fourth Ward", comprised and bounded as follows:

Commencing at the intersection of East Belmont Avenue and Custer Lane, thence proceeding South along the centerline of Custer Lane to the intersection of the centerline of East Kelly Avenue; thence proceeding West along centerline of East Kelly Avenue to the centerline of Ohio Street; thence proceeding North along the centerline of Ohio Street to the North city limits of the City of Augusta, Kansas; thence proceeding East along the North city limits line to the East city limits line of the City of Augusta, Kansas; thence proceeding South along the East city limits line of the City of Augusta, Kansas, to the point of beginning.
(Ord. 1895, Sec. 5; Code 2010)

CHAPTER VII. DEPARTMENT OF PUBLIC SAFETY

- Article 1. Department of Public Safety
- Article 2. Fire Prevention
- Article 3. Fireworks
- Article 4. Firemen's Relief Association
- Article 5. Property in Safety Department Custody
- Article 6. Department of Public Safety Fees

ARTICLE 1. DEPARTMENT OF PUBLIC SAFETY

7-101. DEPARTMENT OF PUBLIC SAFETY. (a) The law enforcement department shall consist of a director of public safety and such number of regular law enforcement officers as shall be appointed as provided by K.S.A. 14-201.

(b) The department of public safety is created for the protection and safety of persons and property. (Code 2010)

7-102. DIRECTOR OF PUBLIC SAFETY; POWERS AND DUTIES; SUPERVISION OF DEPARTMENT. (a) The director of public safety shall be in charge of and shall supervise the administration of the department of safety, subject to approval of the city manager, and he or she shall serve as the city marshal-chief of police, fire marshal, and chief of the fire department.

(b) The director of public safety of the department of public safety shall be under the supervision of the city manager 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 director of safety's duty to see that all such apparatus and equipment is ready at all times for immediate use. It shall also be the director of safety'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.

(c) The director of safety, subject to the approval of the city manager, shall prepare rules and regulations relating to the conduct of the department of safety and of the officers of the department, including but not limited to the training and instruction of the officers of the department in approved, up-to-date techniques of promoting public safety and of providing fire and police protection. He or she may require such officers to attend practice or training sessions or courses as he or she may deem advisable and necessary to adequately carry out the functions of the department of safety.

(Code 1975, 15-102, 15-201; Code 1991)

7-103. LAW ENFORCEMENT PERSONNEL; GENERAL DUTIES. (a) It shall be the general duty of the Director of Public Safety 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 Director of Public Safety 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 city jail, 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.

(b) All officers of the department of safety, either commission or volunteer, shall be appointed by the city manager and they shall have the powers, duties, immunities and authority of police officers and firefighters and such other duties as may be determined by the city manager. They shall have power to arrest all offenders against the laws of the state or the ordinances of the city, by day or by night, with proper process, and to arrest without process where any such offense shall be committed or attempted to be committed in their presence, and to bring such offenders to trial.

(Code 2010)

7-104. RULES AND REGULATIONS. The Director of Public Safety shall have power to make such rules and regulations as may be necessary for the proper and efficient conduct of the department. (Code 2010)

7-105. DIRECTOR OF PUBLIC SAFETY; POWERS. (a) The director of public safety 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.

(b) The director of public safety 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 director of public safety shall have full power, control and command of all persons present and shall direct the use of the fire apparatus and equipment, and command the firefighters in the discharge of their duties. He or she shall take such measures as he or she shall deem proper and necessary in the preservation and protection of property and extinguishing of fires.

(Code 1975, 15-202; Code 1991)

7-106. SAME; RECORDS. The director of public safety of the public safety 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 1975, 15-203; Code 1991)

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 safety department. (Code 1975, 15-206; Code 1991, 7-109)

7-108. 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 safety 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 1975, 15-205; Code 1991, 7-112)

7-109. VOLUNTEER SAFETY OFFICERS; COMPENSATION. All sums for services of the voluntary members of the safety department, as determined by the governing body, shall be paid by the city directly to the voluntary safety department association of the city. (Code 1975, 15-107; Code 1991, 7-115)

ARTICLE 2. FIRE PREVENTION

- 7-201. FIRE PREVENTION CODE INCORPORATED. There is hereby adopted by the governing body of the city, for the purpose of prescribing regulations, governing conditions hazardous to life and property from fire or explosion, that certain code and standards known as the Uniform Fire Code, edition of 2003, including all the Appendix chapters, and the Uniform Fire Code Standards, and the National Fire Codes of the National Fire Protection Association (NFPA) 2003 and amendments hereafter, Fire Protection Association (NFPA) 2003 land amendments hereafter, published by the Western Fire Chiefs Association and the International Conference of Building Officials, being particularly the 2003 editions thereof and the whole thereof, save and except such portions as hereinafter deleted, modified or amended by section 7-203 of this article three copies which Code and Standards have been and are now filed in the office of the clerk of the City of Augusta, Kansas, and the same are hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this ordinance shall take effect, the provisions thereof shall be controlling within the limits of the city. (Code 2010)
- 7-202. SAME; ENFORCEMENT. The code hereby adopted shall be enforced by the director of safety of the safety department. (Code 1991)
- 7-203. SAME; AMENDMENTS. (a) Wherever the word municipality is used in the code hereby adopted, it shall be held to mean the City of Augusta.
(b) Article 13, Fireworks, of the Fire Prevention Code is hereby deleted in its entirety.
(c) Wherever in the Fire Prevention Code the term chief of the fire department appears, it shall, for the purpose of this article, mean the director of public safety of the city.
(d) Wherever in the fire prevention code the term fire department appears, it shall, for the purpose of this article, mean the public safety department of the city.
(Code 1975, 8-102; Code 1991)
- 7-204. OPEN BURNING; GENERAL. It shall be unlawful for any person to conduct or permit within the city any open burning of any materials wherein contaminants resulting from such combustion are emitted directly into the ambient air provided that such open burning prohibition shall not apply to:
(a) Open fires for cooking or ceremonial purposes in facilities constructed specifically for such purpose on public or private premises used for recreational purposes, or facilities approved by the Director of Public Safety; provided that any such fire so started shall be extinguished and made safe before the person starting or maintaining the fire shall leave the place where the fire was started. Open pit fires are prohibited unless authorized by the Director of Public Safety;
(b) The burning of combustible materials in indoor fireplaces;
(c) The burning of combustible materials in outdoor fireplaces;
(d) Permanent sites which are licensed by the Kansas Department of Health and Environment for open burning.

(e) The burning of combustible material for fire training by a public fire department and/or private fire brigade only after notification to the Director of Public Safety;

(f) An approved closed chamber device as defined in 7-208;

(g) The removal of hazardous materials, which were accidentally discharged, but only when the Kansas Department of Health and Environment has issued the proper permit and has approved the burning operation.
(Ord. 1901, Sec. 1; Code 2010)

7-205. OPEN BURNING; COMBUSTIBLE MATERIALS. Open burning of combustible materials as may be authorized by issuance of an open burning permit when conditions and restrictions stated thereon as determined by the Director of Public Safety, but only after an inspection of the burn site has been conducted by the Director of Safety or his/her designee. The following provisions shall apply to all outdoor burning, when a permit is issued by the Director of Public Safety:

(a) The person responsible for the burning shall be at least 18 years of age. An adult, at least 18 years of age, shall supervise the burning from the time of ignition until the fire is extinguished;

(b) The person(s) conducting such burning shall not be under the influence of any alcohol or narcotics;

(c) Provisions that are approved by the Director of Public Safety to control the fire shall be present at the burn site while the fire is burning;

(d) The wind shall not be over 15 miles per hour and the wind shall be in a direction to not carry smoke or other products of combustion over a populated area;

(e) If complaints are received, the responsible party shall immediately extinguish the fire;

(f) Other requirements as established by the Director of Public Safety based upon the location of the proposed burn site.

(Ord. 1901, Sec. 1; Code 2010)

7-206. PERMITS; REQUIRED. Permits to conduct open burning of combustible materials shall be issued only when the person requesting the outdoor burning permit has demonstrated to the Director of Public Safety the reduction or disposal of such material would otherwise be impractical or not feasible and where such open burning would not be in conflict with state regulations. Such permit shall only be issued when the smoke or other by-products of combustion will not travel across or near any populated area of the City of Augusta all outdoor burning fires shall be extinguished before sun down on the day the permit was issued. (Ord. 1901, Sec. 1; Code 2010)

7-207. LIABILITY OF PROPERTY OWNERS. It shall be prima facie evidence that the person who owns or controls property on which open burning occurs has caused or permitted the open fire. (Ord. 1901, Sec. 1; Code 2010)

7-208. CLOSED CHAMBER DEVICE. Any enclosed chamber device or structure used for the destruction or volume reduction of garbage, rubbish, or other liquid or solid waste materials by combustion pursuant to disposal or salvaging operations

may be used, provided that the Director of Public Safety has approved each device for such use. (Ord. 1901, Sec. 1; Code 2010)

7-209. DISPOSAL OF HOT ASHES. No person shall deposit hot ashes, hot cinders, smoldering coal or oily substances liable to spontaneous ignition into any combustible receptacle; or place the same within 10 feet of any combustible material, except in metal or other non-combustible, covered receptacles. Such receptacles, unless resting upon a combustible floor or on the ground outside the building, shall be placed on non-combustible stands and in every case shall be kept at least two feet away from any combustible wall, partition, or exterior window opening. (Ord. 1901, Sec. 1; Code 2010)

7-210. PERMITS; ISSUANCE OF. Permits to conduct open burning of combustible materials shall be issued by the Director of Public Safety and shall be issued only for the date that the burning is to be conducted. Each permit shall state all conditions and restrictions, which may be placed by the Director of Safety. No permit shall be issued for open burning prior to the date such burning is authorized. Prior to any burn permit being issued, the Augusta Department of Public Safety shall inspect the proposed burn site. Each permit shall contain the following information:

- (a) Location;
- (b) Name of individual who is authorized;
- (c) Date that the burning is authorized;
- (d) Time period that the burning is authorized;
- (e) Special restrictions and conditions, which may apply;
- (f) Name of official who issues permits.

(Ord. 1901, Sec. 1; Code 2010)

7-211. PERMITS: REVOKED BY DIRECTOR OF PUBLIC SAFETY. The Director of Public Safety shall have the right at any time with just cause, to revoke any burn permits when conditions change which made such burning unsafe. (Ord. 1901, Sec. 1; Code 2010)

7-212. PENALTY. Any person who shall be convicted of violation of Sections 7-204 through 7-211 shall be punished by a fine of not more than \$1,000.00 and/or a sentence of not more than 30 days. (Ord. 1901, Sec. 1; Code 2010)

ARTICLE 3. FIREWORKS

7-301.

DEFINITIONS. For the purpose of this article, the words and phrases used herein shall have the following meanings unless otherwise clearly indicated by the context:

(a) "Fireworks" - shall mean and include any combustible and deflagrating composition, article, or device suitable for use of the public for producing a visible or audible effect by combustion, deflagration, or by detonation and previously approved by the chemical laboratory of the United States Department of Transportation, by the Kansas State Fire Marshal's Office and by the Augusta Department of Safety. The following devices are not classified as common fireworks by the U.S. Department of Transportation but are generically known as novelties, tricks and noisemakers, including but not limited to, the following items; snakes or glow worms, tubs or spheres that upon ignition produce white or colored smoke as the primary effect, wire sparklers not containing magnesium and not exceeding one hundred grains of composition material per sparkler, and the following noise maker devices that produce a small report, including what is commonly known as a party popper, booby trap, snapper, trick match, cigarette load, and auto burglar alarm not exceeding .25 grains of explosive material. This term shall not include any auto flares, paper caps not in excess of an average of .25 grains of explosive per cap, toy pistols, cannons and guns or other devices for the use of such caps.

(b) "Prohibited fireworks" - shall mean and include any combustible or deflagration device other than Interstate Commerce Commission Class "C" fireworks not approved for sale within the State of Kansas by the Kansas State Fire Marshal or by the Department of Public Safety. The following shall be unlawful fireworks within the City of Augusta; firecrackers greater than one and one-half inch in length, torpedoes, sky rockets, and bottle rockets as defined by the State Fire Marshal, and any other fireworks deemed to pose an unusual risk or hazard to the health and welfare of the City of Augusta, but only after conducting actual field test of such items.

(Ord. 1773, Sec. 1; Code 2010)

7-302.

DISCHARGE OF FIREWORKS. It shall be unlawful for any person, firm, corporation or partnership to discharge fireworks within the limits of the city except as permitted by this article. The discharge of lawful fireworks will be permitted on January 1 between 12:00 midnight and 12:15 a.m. and on July 3 between the hours of 8:00 a.m. and 10:00 p.m. and on July 4 between the hours of 8:00 a.m. and 12:00 midnight. The discharge of fireworks will be allowed on private property but there shall be no discharge of fireworks on city property unless a permit is granted by city for such discharge. In addition, it shall be unlawful to commit any of the following acts within the City of Augusta:

(a) The discharge of fireworks within 1,000 feet of any hospital, sanitarium or infirmary;

(b) The discharge of fireworks into, under or from any motor vehicle, whether moving or standing still;

(c) The discharge of fireworks within 200 feet of any facility where fireworks are sold or stored;

(d) The discharge of fireworks within 300 feet of a service station;

(e) The discharge of fireworks on any public roadway, street or right of way;

(f) The discharge of fireworks in any manner which may pose an unreasonable risk of fire, property damage or personal injury;

(g) The discharge of fireworks on private property not owned or under the legal control of the person discharging the fireworks unless the person is a social invitee and has permission of the owner to discharge the fireworks;

(h) The discharge of fireworks toward any residence, commercial building or other structure whether intended or not.

(Ord. 1965, Sec. 1; Code 2010)

7-303. PUBLIC DISPLAY. It shall be unlawful for any person, firm, corporation or partnership to provide a public fireworks display within the limits of the city without first obtaining a permit to do so. An application for a public display permit can be obtained from the City Clerk and should be filed at least thirty (30) days in advance of the date of the proposed display. The application shall clearly state the name of the applicant, the location, date and time of display, the nature of the fireworks used in the display, the name of the person, firm or corporation who will be in charge of the detonation of the fireworks, and the anticipated need for police, fire or other municipal services. The permit may be denied if it is determined that the nature of the fireworks or other relevant, factors create an undue, risk of harm or damage to persons or property. (Ord. 1773, Sec. 1; Code 2010)

7-304. MANUFACTURE, STORAGE AND SALE OF FIREWORKS. (a) Except as otherwise provided in this Article, it shall be unlawful for any person, firm, corporation or partnership to manufacture or assemble fireworks within the city. It shall also be unlawful for any person, firm, corporation or partnership to store, possess or offer for sale fireworks within the limits of the city.

(b) Except as otherwise provided, no entity may store fireworks within the city without the express written approval of city. Any requests for storage must be submitted in writing and investigated by the Department of Public Safety. The results of the investigation by the Department of Public Safety shall be submitted to the City Manager for his determination as to whether the request will be granted.

(c) The sale and storage of approved fireworks within the city as authorized under this Article shall be conducted and transacted only by licensed persons and entities under such regulations and at such times and places as provided in this Article.

(d) The sale of approved fireworks will be permitted on the dates of June 27 through July 4 of each year between the hours of 9:00 a.m. and 10:00 p.m. by licensed persons or entities. Any persons, partnership, corporation or other entity may apply to the City Clerk for a license to self fireworks by filing an application stating the name of the applicant, the proposed locations of sale and attaching to the application written approval for the use of the proposed site and a certificate of insurance as required herein. Attached to the application shall be site plan which shall consist of a drawing of the proposed location. Indicated on this drawing shall be the property lines, and the proposed location of the sales site. The distance between the property lines and the safes site shall be indicated. A

minimum of 25ft set back shall be maintained from the side property lines. Unless said property falls within restrictions of locations of buildings specified under General Requirements for Sale, Storage and Testing of Fireworks, Section 1, Requirements for the Sale of Fireworks and where two adjacent properties exist, both of which are properly zoned the minimum set back from said property line shall be 75 feet. If upon inspection, the sales site is found to be different from indicated on the site plan, the permit shall not be issued. All permits will be issued in order received by the City of Augusta. The permit application and all required documents will be returned to the City Clerk. Once received, the City Clerk shall submit the application to the Director of Public Safety. The Director of Public Safety or his/her designee will review the applications and the site plan for compliance with this ordinance. The Director of Safety will submit a report to the City Clerk with the recommendation to either approve or deny the application. Before the actual sale of fireworks can commence, the Director of Public Safety or his/her designee shall conduct an inspection of the sales site. This inspection shall be conducted after all stock is in place and the site is ready for business. Such license shall be issued to a specific person or entity at a specific site and such license shall not be transferable. The fee for such license shall be established from time to time by Resolution of the Governing Body of the City of Augusta, Kansas and must be submitted with the application by cashier's check or money order. Such license shall be available at the authorized site for inspection at all times the sale of fireworks is being conducted.

(e) In addition to the license fee, any licensee will be required to make a security deposit in the sum of Two Thousand Five Hundred Dollars (\$2,500.00) at the time of the granting of the license to sell fireworks. The security deposit must be in the form of a cashier's check or money order. The security deposit will be held by City until such time as the site used for the sale of fireworks can be inspected to determine if the tent or other temporary structure and other material and debris have been properly removed from the site. Should the licensee fail to clean the site on or before July 10 or if any other act on the part of the licensee causes expense to the City, then a deduction from the security deposit equaling the expenditures of the City may be made by City and the balance, if any, returned to licensee.

(f) The City Manager may from time-to-time, promulgate with approval of the City Council certain regulations for operation and maintenance of the sites for sale of fireworks. Such regulations shall be distributed with each license to sell fireworks. These regulations shall be enforceable against all persons, employees and agents of the licensee of each site for the sale of fireworks. Failure to follow such regulations shall constitute a violation of this ordinance.

(g) Any fireworks that remain unused after the sale of fireworks shall be immediately disposed of in a safe manner for the type of fireworks involved.

(Ord. 1804, Sec. 1; Ord. 1773, Sec. 1; Code 2010)

7-305.

SEIZURE OF FIREWORKS. The Department of Public Safety is authorized to seize, take and remove any fireworks stored within the city without permit at the expense of the person in possession of such fireworks. Any seized fireworks shall be disposed of in a procedure provided by the State Fire Marshal. (Ord. 1773, Sec. 1; Code 2010)

- 7-306. INSURANCE. (a) Any person, firm, corporation or partnership applying for a permit for a public display of fireworks must provide evidence or a certificate of insurance in an amount not less than \$500,000.00 currently in force to the City Clerk along with the application for the permit. Failure to provide the certificate to the City Clerk may result in a permit being denied. Any permits issued by the city under this article will be subject to immediate revocation at any time it is determined that insurance coverage is not in force as required above.
- (b) All licensees for retail sales of approved fireworks shall furnish a copy of or certificate of insurance in the amount of not less than \$500,000.00 for the payment of all damages which may result to persons or property caused by any act or omission of licensee or its employees or agents regarding the retail sale of fireworks in the city. Failure to provide the certificate of insurance upon request by the City Clerk or City Manager may result in a license being terminated. (Ord. 1773, Sec. 1; Code 2010)
- 7-307. TERMINATION. (a) Whenever the city has issued a public display permit or license to sell fireworks at retail under the provisions of this article and it is determined by the Department of Public Safety that the permitted function is in violation of this article or is operating in an unsafe manner, the Department of Public Safety shall immediately report the violation to the City Manager who shall determine whether to terminate the operations or permanently cancel the permit or license involved.
- (b) If a permit or license shall be terminated by the City Manager under this section, the permittee or licensee shall have a right to appeal the decision to terminate to the City Council for review. The City Council shall consider the request for review at the next City Council meeting, whether regularly scheduled or specially called. The City Council shall then decide by majority vote whether to continue or terminate the permit or license in question. Upon review, the license shall remain terminated or suspended until considered by the City Council. (Ord. 1773, Sec. 1; Code 2010)
- 7-308. EMERGENCY. At any time special circumstances exist including but not limited to a state wide ban on burning and/or fireworks detonation or any other circumstances which indicate the detonation of fireworks will create a public hazard, the time, place and manner of detonation of fireworks may be altered or suspended by the City Manager. (Ord. 1773, Sec. 1; Code 2010)
- 7-309. EXCEPTIONS. Nothing in this article shall prohibit the use of fireworks by railroads or other public transportation companies or agencies for signal or illumination purposes. The sale or use of blank pistol cartridges for any commercial, theater or entertainment, for signal or ceremonial purposes at athletic or sporting contests or the use of fireworks or similar devices by military, law enforcement or fire service agencies shall not constitute a violation of this article. (Ord. 1773, Sec. 1; Code 2010)
- 7-310. TESTING. The Department of Public Safety shall set up testing procedures for use in determining whether certain fireworks allowed to be discharged within the City of Augusta comply with requirements of this article and regulations approved by the City Council. The results of such testing will be made known to

the City Manager who will in turn take appropriate action under the terms of this article. (Ord. 1773, Sec. 1; Code 2010)

7-311.

PENALTIES. Any person, firm, corporation or partnership who violates the provisions of this article may be fined in an amount not less than \$50.00 nor more than \$1,000.00 for each occurrence. (Ord. 1773, Sec. 1; Code 2010)

ARTICLE 4. FIREMEN'S RELIEF ASSOCIATION

7-401. FIREMEN'S RELIEF ASSOCIATION; RECOGNITION. The nonprofit corporation known as "Firemen's Relief Association of Augusta, Kansas," organized and existing pursuant to K.S.A. 40-1702, et seq., as amended, is hereby recognized and acknowledged by the governing body of the city to be a validly organized and existing corporation under the laws of the State of Kansas. (Code 1975, 15-401; Code 1991, 7-501)

7-402. PUBLIC SAFETY OFFICERS; MEMBERSHIP IN FIREMEN'S RELIEF ASSOCIATION. All officers of the department of public safety, either commissioned or volunteer, shall be members of the Augusta Firemen's Relief Association. (Code 1975, 15-106; Code 1991, 7-114; Code 2010)

ARTICLE 5. PROPERTY IN SAFETY DEPARTMENT CUSTODY

- 7-501. **DESIGNATION OF PROPERTY.** This article relates to and embraces all lost, stolen, strayed, abandoned, unclaimed or confiscated property which of itself is not contraband or the possession of which is not unlawful, which is now or which may hereafter come into the possession of the authorized officers of the city; provided however, that the property mentioned herein shall not include motor vehicles which shall be sold otherwise by the laws of the State of Kansas, and any property held as legal evidence or that shall be illegal or any property which shall be illegal to possess. (Ord. 1334, Sec. 1; Code 1991, 7-601)
- 7-502. **CUSTODY.** All personal property of the character described in section 7-501 shall be delivered to the custody of the director of safety who shall retain possession of such property for a period of not less than 90 days, except as elsewhere herein provided, unless the owner or person entitled to the possession of such property shall sooner claim such property and establish his or her ownership and right to possession thereof. (Ord. 1334, Sec. 2; Code 1991, 7-602)
- 7-503. **NOTICE OF INTENT TO SELL; REQUIREMENTS AS TO SALE.** If the owner or person entitled to the possession of property as described in this article, shall fail to claim such property within 90 days, then at such time or at any time thereafter, the director of safety may cause a notice to be published in the official city paper, setting forth a detailed description of such property and stating that unless the same be claimed within 10 days, such property will be sold at public auction to the highest bidder therefore for cash, and stating the time and place of such sale; provided, that if such property be livestock, the value of which is less than the cost of keeping the same for the periods described in this section such property shall be advertised immediately and sold after a three days' notice given as herein provided. If the property shall be perishable, then the same shall be sold without the procedure aforesaid in any feasible manner. (Ord. 1334, Sec. 3; Code 1991, 7-603)
- 7-504. **FAILURE OF OWNER TO CLAIM BEFORE SALE; SALE TO HIGHEST BIDDER, ETC.** If the owner or person entitled to the possession of property advertised under the preceding section shall fail to claim the same at any time before the date of such sale, then it shall be sold to the highest bidder therefor cash, and the purchaser thereof shall take a good and perfect title thereto. (Ord. 1334, Sec. 4; Code 1991, 7-604)
- 7-505. **COSTS TO BE PAID BY OWNER IF PROPERTY CLAIMED AFTER PUBLICATION.** If the owner or person entitled to the possession of property contemplated by this article shall claim the same after the publication of the same as provided in section 7-503, he or she shall pay the actual cost of publication, together with the actual cost of keeping such property during its custody. (Ord. 1334, Sec. 5; Code 1991, 7-605)
- 7-506. **DISPOSITION OF PROCEEDS OF SALE.** Any funds received from the sale of any property as provided in this article, less the cost of publication and keeping

the same for sale and the costs of such sale, shall be deposited with the city treasurer and shall be kept in a separate fund, during which time the former owner of the property may claim the fund received from the sale of such property, less the deductions provided in this article. If such fund be not claimed within the period of six months such sum shall be paid to the general fund of the city. (Ord. 1334, Sec. 6; Code 1991, 7-606)

7-507. DISCRETIONARY SALE. If the director of public safety shall ascertain that the property as provided in this article shall not be of sufficient value to justify a sale as provided herein, he or she shall hold such property until a sale shall be justified. If the property shall be of little or no value then the same may be destroyed as refuse with a record being kept as to such disposal. Provided that property shall not be given to any person unless the same shall have been approved by the governing body of the city. (Ord. 1334, Sec. 7; Code 1991, 7-607)

7-508. REGULATIONS. The Department of Public Safety is required to establish regulations detailing the collection, storage, and inventory of property which may come under its control by any manner. (Code 2010)

7-509. DISPOSITION. Any property which has been acquired or turned over to the Department of Public Safety and has been classified in accordance with procedures existing in the Department of Public Safety 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 7-503, shall be sold at public auction to the highest bidder and the proceeds after expenses shall be paid to the city general fund. (Code 2010)

7-510. SAME; EXEMPT PROPERTY. The following classes of property shall be considered exceptions to section 7-502 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 7-502.

(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 department of public safety 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 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 2010)

7-511. CLAIMING PROPERTY. The Department of Public Safety 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 2010)

7-512. PROOF OF OWNERSHIP. Claimants to any property in the Department of Public Safety's storage shall be required to present reasonable proof of ownership and no property shall be released unless such reasonable proof is presented. (Code 2010)

7-513. 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 department of public safety. 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 department of public safety and any claims on property must be made prior to the start of the auction. (Code 2010)

ARTICLE 6. DEPARTMENT OF PUBLIC SAFETY FEES

7-601. FEE FOR 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:

Host: The person who owns or is in possession of the property where the party, gathering or event takes place, or the person in charge of the premises, or the person who organized the event. If the host is a minor, then the parents or guardians of that minor will be jointly and severally liable for the fee incurred for police services.

Party, Gathering or Event: An event involving a group of persons who have assembled or are assembling for a social occasion or for a social activity.

Services Fee: The cost to the city of any special security assignment, including, but not limited to, salaries of safety 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.

Special Security Assignment: The assignment of public safety 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 safety response. (Code 1991, 7-701)

7-602. INITIAL RESPONSES TO PARTIES, GATHERINGS OR EVENTS. When any safety officer responds to any party, gathering or event, and that public safety officer determines that there is a threat to the public peace, health, safety, or general welfare, the safety 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 safety services fee as defined in this article. (Code 1991, 7-702)

7-603. SUBSEQUENT RESPONSES TO PARTIES, GATHERINGS OR EVENTS; LIABILITY. If, after a written notice is issued pursuant to section 7-602, a subsequent safety 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 safety services fee as defined in this article.

The amount of the fee shall be a debt owned 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 1991, 7-703)

7-604. COST; COLLECTION. The director of public safety 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 1991, 7-704)

CHAPTER VIII. HEALTH AND WELFARE

- Article 1. Junked Motor Vehicles on Private Property
- Article 2. Weeds
- Article 3. Fair Housing
- Article 4. Insurance Proceeds Fund
- Article 5. Release of Hazardous Materials

ARTICLE 1. JUNKED MOTOR VEHICLES ON PRIVATE PROPERTY

- 8-101. FINDINGS OF GOVERNING BODY. The governing body finds that junked, wrecked, dismantled, inoperative or abandoned vehicles affect the health, safety and general welfare of citizens of the city because they:
- (a) Serve as a breeding ground for flies, mosquitoes, rats and other insects and rodents;
 - (b) Are a danger to persons, particularly children, because of broken glass, sharp metal protrusions, insecure mounting on blocks, jacks or other supports;
 - (c) Are a ready source of fire and explosion;
 - (d) Encourage pilfering and theft;
 - (e) Constitute a blighting influence upon the area in which they are located;
 - (f) Constitute a fire hazard because they frequently block access for fire equipment to adjacent buildings and structures.
- (Code 1991)
- 8-102. 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 1991)
- 8-103. 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 inoperative condition. Any one of the following conditions shall raise the presumption that a vehicle is junked, wrecked or inoperative:
 - (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 article 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 1991)

8-104. PUBLIC OFFICER. The city manager shall designate a public officer to be charged with the administration and enforcement of this article. (Code 1991)

8-105. 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, director of public safety 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 1991)

8-106. 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, to the extent allowable by law. (Code 1991)

8-107. ORDER OF VIOLATION. (a) The governing body shall serve upon the owner, any agent of the owner of the property or any other person, corporation, partnership or association found by the public officer to be in violation of section 8-303 an order stating the violation. The order shall be served on the owner or agent of such property by certified mail, return receipt requested, or by personal service. If the property is unoccupied and the owner is a nonresident, then by mailing the order by certified mail, return receipt requested, to the last known address of the owner.

(b) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding 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

nonresident, notice provided by this section shall be given by telephone communication or first class mail. (K.S.A. 12-1617e; Code 2010)

8-108. SAME; CONTENTS. The order shall state the condition(s) which is (are) in violation of section 8-303. The notice shall also inform the person, corporation, partnership or association that

(a) He, she or they shall have 10 days from receipt of the order to abate the condition(s) in violation of section 8-303; or

(b) He, she or they have 10 days from receipt of the order to request a hearing before the governing body or its designated representative 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 1991)

8-109. 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 1991)

8-110. 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 an order 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.

(d) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding 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 nonresident, notice provided by this section shall be given by telephone communication or first class mail. (Code 2010)

8-111. DISPOSITION OF VEHICLE; RECOVERY OF VEHICLE. (a) Disposition of any motor vehicle removed and abated from private property pursuant to this article shall be as provided by K.S.A. Supp. 8-1102, as amended.

(b) Any person attempting to recover a motor vehicle impounded as provided in this article, shall show proof of valid registration and ownership of the motor vehicle before the motor vehicle shall be released. In addition, the person desiring the release of the motor vehicle shall pay all reasonable costs associated with the impoundment of the motor vehicle, including transportation and storage fees, prior to the release of the motor vehicle.
(Code 2010)

8-112. 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. The hearing shall be held by the governing body or its designated representative as soon as possible after the filing of the request therefore, and the person shall be advised by the city of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body or its designated representative. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the findings of the governing body or its designated representative shall be prepared in resolution form, adopted by the governing body, and the resolution shall be served upon the person in the matter provided in section 8-310.
(Code 1991)

8-113. COSTS ASSESSED. If the city abates or removes the nuisance pursuant to section 8-310, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following receipt of the notice. The city also may recover the cost of providing notice, including any postage, required by this section. The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the city clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the city as other city taxes are

collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and applicable interest has been paid in full. (Code 2010)

ARTICLE 2. WEEDS

8-201. 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 center line 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. 1751, Sec. 1; Code 2010)

8-202. DEFINITIONS. (a) Calendar Year - as used herein, means that period of time beginning January 1 and ending December 31 of the same year.
(b) Weeds - as used herein, means any of the following:
(1) Brush and woody vines shall be classified as weeds;
(2) Weeds and indigenous grasses which may attain such large growth as to become, when dry, a fire menace to adjacent improved property;
(3) Weeds which bear or may bear seeds of a downy or wingy nature;
(4) Weeds which are located in an area which harbors rats, insects, animals, reptiles, or any other creature which either may or does constitute a menace to health, public safety or welfare;
(5) Weeds and indigenous grasses on or about residential property which, because of its height, has a blighting influence on the neighborhood. Any such weeds and indigenous grasses shall be presumed to be blighting if they exceed 12 inches in height.
(Ord. 1751, Sec. 1; Code 2010)

8-203. ADMINISTRATION AND ENFORCEMENT. (a) The City Manager shall designate a public officer to be charged with the administration and enforcement of this article. The officer or an authorized assistant shall notify in writing the owner, occupant or agent in charge of any premises in the city up on which weeds exist in violation of this article, by mail or by personal service, one per calendar year. Such notice shall include the following:
(1) That the owner, occupant or agent in charge of property is in violation of the city weed control law.
(2) That the owner, occupant, or agent in charge of the property is ordered to cut the weeds within 10 days of the receipt of notice.
(3) That the owner, occupant or agent in charge of the property may request a hearing before the Governing Body or it*s designated representative within five days of the receipt of notice.
(4) That if the owner, occupant or agent in charge of the property does not cut the weeds, the city or it*s authorized agent will cut the weeds and assess the cost of the cutting, including a reasonable administrative fee, against the owner, occupant or agent in charge of the property.

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

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

(7) That the public officer should be contacted if there are any questions regarding the order.

(b) 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 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. 1751, Sec. 1; Code 2010)

8-204. ABATEMENT; ASSESSMENT OF COSTS. (a) Upon the expiration of 10 days after receipt of the notice required by Section 8-203, and in the event that the owner, occupant or agent in charge of the premises shall neglect or fail to comply with the requirements of Section 8-201, the public officer or an authorized assistant shall cause to be cut, destroyed and/or removed all such weeds and abate the nuisance created thereby at any time during the current calendar year.

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

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

(Ord. 1751, Sec. 1; Code 2010)

8-205. 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 up on 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, to the extent allowable by law. (Ord. 1751, Sec. 1; Code 2010)

8-206. UNLAWFUL INTERFERENCE. It shall be unlawful for any person to interfere with or to attempt to prevent the public officer or the public officer*s authorized representative from entering upon any such lot or piece of ground or from proceeding with such cutting and destruction. Such interference shall constitute an ordinance violation. (Ord. 1751, Sec. 1; Code 2010)

8-207.

NOXIOUS WEEDS. (a) Nothing in this article shall affect or impair the rights of the city under the provisions of K.S.A. 2-1302, et. seq, 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 kuapweed (*Centaurea picns*), hoary cress (*Lepidium draba*), Canada thistle (*Cirsiuin arvense*), quackgrass (*Agropyron rep ens*), leafy spurge (*Euphorbia esula*), burragweed (*Franseria tomentosa* and *discolor*), pignut (*hoiffinannseggia densiflora*), musk (nodding), thistle (*Carduus nutans L.*), and Johnson grass (*Sorghum halepense*).

(Ord. 1751, Sec. 1; Code 2010)

ARTICLE 3. FAIR HOUSING

8-301. POLICY. The governing body of the city hereby declares it to be the public policy of the city to eliminate discrimination and safeguard the right of any person to sell, purchase, lease, rent, finance or obtain funding of real property without regard to race, color, sex, religion, national origin or ancestry and hereby adopts all state and federal laws pertaining to fair housing within the city limits of Augusta, KS. (Ord. 1463, Sec. 1; Code 2010)

ARTICLE 4. INSURANCE PROCEEDS FUND

- 8-401. 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 1991, 7-401; Code 2010)
- 8-402. 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 1991, 7-402; Code 2010)
- 8-403. SAME; ENCUMBRANCES. Prior to final settlement on any claim covered by section 8-402, the insurer or insurers shall contact the county treasurer, Butler 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, Butler County, Kansas. (Code 1991, 7-403)
- 8-404. 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 1991, 7-404)
- 8-405. 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 city 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 1991, 7-405)

8-406. 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 1991, 7-406)

8-407. CITY INSPECTOR; INVESTIGATION, REMOVAL OF STRUCTURE.

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

(b) Within 20 days of the receipt of said moneys, the city 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 city 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 city 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 city 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 1991, 7-407; Code 2010)

8-408. REMOVAL OF STRUCTURE; EXCESS MONEYS. If the city 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 1991, 7-408)

- 8-409. SAME; DISPOSITION OF FUNDS. If the city 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 8-805(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 city 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 8-805(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 1991, 7-409)
- 8-410. 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 1991, 7-410)
- 8-411. 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 1991, 7-411)

ARTICLE 5. RELEASE OF HAZARDOUS MATERIALS

8-501.

DEFINITIONS. (a) Emergency action - shall mean all exigent activities conducted in order to prevent or mitigate harm to the public health and safety and the environment from a release or threatened release of any material into or upon land, water or air.

(b) Person - shall include any individual, corporation, association, partnership, firm, trustee, legal representative, or any combination thereof.

(c) Recoverable expenses - shall include those expenses of the City of Augusta that are reasonable, necessary and allocable to an emergency action. Recoverable expenses shall not include normal budgeted expenditures that are incurred in the course of providing what are traditionally city services and responsibilities, such as routine firefighting protection. Expenses allowable for recovery may include, but are not limited to:

(1) Disposable materials and supplies consumed and expended specifically for the purpose of the emergency action.

(2) Compensation of employees for the time and efforts devoted specifically to the emergency action.

(3) Rental or leasing of equipment used specifically for the emergency action (e.g., protective equipment or clothing, scientific and technical equipment).

(4) Replacement costs for equipment owned by the City that is contaminated beyond reuse or repair, if the equipment was a total loss and the loss occurred during the emergency action (e.g., self-contained breathing apparatus irretrievably contaminated during the response).

(5) Decontamination of equipment contaminated during the response.

(6) Special technical services specifically required for the response (e.g., costs associated with the time and efforts of technical experts or specialists not otherwise provided for by the City).

(7) Other special services specifically required for the emergency action.

(8) Laboratory costs of analyzing samples taken during the emergency action.

(9) Any costs of cleanup, storage, or disposal of the released material.

(10) Costs associated with the services, supplies and equipment procured for a specific evacuation of persons or property.

(11) Medical expenses incurred as a result of response activities.

(12) Legal expenses that may be incurred as a result of the emergency action, including efforts to recover expenses pursuant to this article.

(d) Release - shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into or upon land, water or air, of any material which the city determines may be harmful to the public health and welfare or to the environment.

(e) Threatened release - shall mean any imminent or impending event potentially causing but not resulting in a release, but causing the City to undertake an emergency action.

(Ord. 1709, Sec. 1; Code 2010)

8-502. **STRICT LIABILITY.** Any person causing or responsible for a release or threatened release resulting in an emergency action shall be strictly liable to the City for the recoverable expenses resulting from the emergency action. There shall be a rebuttable presumption that any person owning or controlling property causing a release or threatened release is responsible for such release or threatened release. (Ord. 1709, Sec. 1; Code 2010)

8-503. **RECOVERY OF EXPENSES.** (a) **Itemization of Recoverable Expenses.** City personnel and departments involved in an emergency action shall keep an itemized record of recoverable expenses resulting from an emergency action. Promptly after completion of an emergency action, the appropriate city department shall certify those expenses to the city manager.

(b) **Submission of Claim.** The city shall submit a written itemized claim for the total expenses incurred by the City for the emergency action to the responsible person and a written notice that unless the amounts are paid in full within 30 days after the date of the mailing of the claim and notice, the City will file a civil action seeking recovery for the stated amount.

(c) **Lien on Property.** The City may cause a lien in the amount of the recoverable expenses to be placed on any real property located within the city owned by the person causing or responsible for the emergency action.

(d) **Civil Suit.** The City may bring a civil action for recovery of the recoverable expenses against any and all persons causing or responsible for the emergency action.

(Ord. 1709, Sec. 1; Code 2010)

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 Augusta, Kansas. The municipal court shall have jurisdiction to hear and determine cases involving violations of the ordinances of the city. (Code 1975, 11-101; Code 1991)
- 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 1975, 11-102; Code 1991)
- 9-103. TIME AND PLACE OF SESSIONS. Municipal court shall be held at a location within the city limits on such days and at such hours as the municipal judge designates. (Code 1975, 11-103; Code 1991)
- 9-104. MUNICIPAL JUDGE; APPOINTMENT. The municipal court shall be presided over by a municipal judge. The city manager shall appoint the judge of the municipal court. (Code 1991)
- 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, a successor shall be appointed in the same manner as the municipal judge is selected. The judge pro tempore shall receive compensation as shall be approved by the city manager, 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 in the same manner as the municipal judge was appointed.
(K.S.A. 12-4107; Code 1991; Code 2010)
- 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 1991)
- 9-107. COURT CLERK. There is hereby established the office of the clerk of the municipal court of the City of Augusta, Kansas. 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 of the municipal court 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 bonds paid into the court. The clerk shall make reports to the state 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.
(K.S.A. Supp. 12-4108; Code 1991)

9-108. 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 1991)

9-109. 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 1991)

9-110. 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 1991)

9-111.

COURT COSTS; WITNESS AND MILEAGE FEES. (a) The judge of the municipal court of the city shall assess as costs of the case the sum of \$30.00 for each case that results in a plea of guilty or a finding of guilt by the Court; except that any parking violation or adult seat belt violation, which is an uncontested, or is not required for a court appearance by the Judge in the Municipal Court, shall not be assessed court costs. These costs are to be used to defray the expenses incurred in the operation of the Municipal Court and all other fees or costs mandated by the State of Kansas or any agency thereof.

(b) All witnesses compelled to appear in the municipal court of the city by subpoena or by order of the court, shall be entitled to a witness fee of \$10.00 per day or any part thereof and mileage at the rate used by the State of Kansas for every mile driven over 10 miles. All such fees shall be paid by the party calling the witness except that if the defendant is found not guilty, all such fees and mileage shall be paid by the city.

(Ord. 1839, Sec. 1; Code 2010)

CHAPTER X. (RESERVED)



CHAPTER XI. PUBLIC OFFENSES

- Article 1. Uniform Offense Code
- Article 2. Local Regulations
- Article 3. Mob Action
- Article 4. Controlled Substances

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 Augusta, Kansas, the code known as the "Uniform Public Offense Code," Edition of 2008, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed. No fewer than three copies of said Uniform Public Offense Code shall be marked or stamped "Official Copy as Adopted by Ordinance No. 1970," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this section, and filed with the city clerk to be open to inspection and available to the public at all reasonable hours. (Ord. 1970; Code 2008)
- 11-102. SAME; AMENDMENT. The following sections of the Uniform Public Offense Code are hereby deleted in their entirety: 4.3, 4.4, 4.5, 6.19, 6.20, 11.8, and 11.9. (Code 1991, 10-103, Ord. 1970; Code 2010)
- 11-103. SAME; AMENDMENT. Section 6.8 of the 2008 Uniform Public offense Code is hereby amended to read as follows: 6.8 LITTERING.
- (a) Littering is intentionally or recklessly depositing or causing to be deposited any object or substance into, upon or about:
 - (1) Any public street, highway, alley, road, right-of-way, park or other public place, or any lake, stream, watercourse, or other body of water, except by direction of some public officer or employee authorized by law to direct or permit such acts; or
 - (2) Any private property without the consent of the owner or occupant of such property.
 - (b) Littering is an unclassified misdemeanor punishable by confinement for a term which shall be fixed by the court which shall not exceed six months, or a fine of not more than five hundred dollars (\$500.00) or both such confinement and fine.
 - (c) In addition to the fines in subsection (b), a person convicted of littering may be required to pick up litter for a time prescribed by and a place within the jurisdiction of the court. (Ord. 1971; Code 2010)

ARTICLE 2. LOCAL REGULATIONS

- 11-201. FAILURE TO RETURN LIBRARY MATERIAL. It shall be unlawful for any person to fail to return any book, newspaper, magazine, pamphlet, manuscript, article, art print, photograph record, film or any other property borrowed from the Augusta Public Library and owned by or consigned to the Augusta Public Library after written notice to return the same within 30 days has been given to such person, provided such notice shall be given after the expiration of the time which by the rules of the library board the book or other library material may be kept. (Ord. 1508, Sec. 1; Code 1991, 10-201)
- 11-202. SAME; SPECIFIC PROHIBITIONS. It shall be unlawful for any person to do any one or more of the following acts:
- (a) Give a fictitious name or address at the Augusta Public Library in order to obtain possession or use of any book or other property of the Augusta Public Library;
 - (b) To use a library card of another person without permission of such owner to secure possession of any book or other property of the Augusta Public Library;
 - (c) To conceal his or her identity or place of employment or residence in any manner whatsoever in order to secure possession of any book, library card or any other property of the Augusta Public Library.
- (Ord. 1508, Sec. 2; Code 1991, 10-202)
- 11-203. SAME; NOTICE. The notice required in section 11-201 shall be given by the librarian of the Augusta Public Library and shall be substantially as follows:
- (a) The notice shall be in writing;
 - (b) Specifically state the violations alleged to exist or to have been committed;
 - (c) Specify that the person to whom the notice is issued shall have 30 days within which to correct the violations specified;
 - (d) Be addressed to and served upon the holder of the library card at the most recent address as it appears from such person's application for a library card.
- Such notice shall be deemed properly served upon such holder or owner of a library card if a copy thereof is served upon him or her personally, or if a copy thereof is sent by certified mail to the most recent address listed on his or her application for a library card.
- (Ord. 1508, Sec. 3; Code 1991, 10-203)
- 11-204. SAME; PRESUMPTION. In any prosecution charging a violation of section 11-201, proof that a particular individual was the registered holder of a particular library card which was used to secure any book or any other library property, shall constitute in evidence a prima facie presumption that the record owner or holder of such library card was the person who utilized the same to secure a particular book or any other property of the Augusta Public Library at the point where and at the time when such violation is alleged to have occurred. The foregoing stated presumption shall apply only when the procedure as prescribed by section 11-203 above has been followed. (Ord. 1508, Sec. 4; Code 1991, 10-204)

- 11-205. SAME; PENALTY. Any violation of the provisions of sections 11-201:204 shall constitute a code violation and any person violating any of these provisions shall upon conviction thereof be fined in a sum not less than \$25.00 nor in excess of \$250.00. Each book, newspaper, magazine or other material borrowed from the Augusta Public Library shall constitute a separate and distinct violation of sections 10-201:204 whether or not such material was checked out on the same day as any other material borrowed from the library. (Ord. 1508, Sec. 5; Code 1991, 10-205)
- 11-206. CURFEW; HOURS DECLARED. It shall be unlawful for any person under the age of 16 years to loiter, idle, wander, stroll or play in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots, or other unsupervised places and including the driving of cars or being passengers thereof, except as hereinafter provided, between the hours of 11:00 p.m. and 5:00 a.m. of the following day, except on Fridays and Saturdays when the hours shall be 12:00 midnight to 5:00 a.m. of the following day, from the 1st day of September of each year to and including the 31st day of May of each year and between the hours of 12:00 midnight and 5:00 a.m. of the following day from the 1st day of June to the 31st day of August inclusive, of each year. (Code 1975, 13-603; Code 1991, 10-206)
- 11-207. SAME; CURFEW; EXCEPTION. The provisions of sections 11-206:208 shall not apply to a minor accompanied by his or her parent, guardian or other adult person having the care and custody of the minor or where the minor is on an emergency errand or legitimate business directed by his or her parent, guardian or other adult person having the care and custody of the minor, or when the minor is going to, attending or returning from any school function, place of amusement or other activity generally open to the public wherein minors are permitted to attend, from the place by the shortest and most direct route to the place of residence of the minor and when any school function, place of amusement or other activity, as aforesaid, shall be located outside of the limits of the city the minor shall take the most direct route from the point of entry of the city limits to the place of residence of the minor. Sections 11-206:208 of this article shall not apply to any person, regardless of age, who shall be a married person. (Code 1975, 13-604; Code 1991, 10-207)
- 11-208. RESPONSIBILITY OF PARENT, OR PERSON HAVING CUSTODY. It shall be unlawful for the parent, guardian or other adult person having the care and custody of a person under the age of 16 years to permit such minor to loiter, idle, wander, stroll or play in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places between the hours of 11:00 p.m. and 5:00 a.m. of the following day, except on Fridays and Saturdays when the hours shall be 12:00 midnight to 5:00 a.m. of the following day; from the 1st day of September of each year to and including the 31st day of May of each year and between the hours of 12:00 midnight and 5:00 a.m. of the following day from the 1st day of June to the 31st day of August, inclusive, of each year; provided, that the provisions of the exception noted in section 11-207 above, shall apply. (Code 1975, 13-605; Code 1991, 10-208)

11-209. LOITERING IN STREETS AND OTHER PUBLIC PLACES. Loitering in streets and other public places is the loitering on the public streets, school buildings or school grounds or any other public place or place accessible to the public without being engaged in some business demanding the person's presence upon such street, school building, school grounds or at such public place or place accessible to the public or habitually lurking in a public place or a place accessible to the public without being engaged in some legal business.

Loitering in streets and other public places is a Class C violation.
(Code 1975, 13-1012; Code 1991, 10-209)

11-210. LOUDSPEAKERS, SOUND AMPLIFIERS; PERMITS. It shall be unlawful for any person to play, use or operate on the streets, alleys, or public grounds of the city any instrument known as a loudspeaker or sound amplifier, without first procuring a permit therefor from the city manager. Such permit shall be granted or refused at the discretion of the city manager.

Violation of this section is a Class C violation.
(Code 1975, 13-1013; Code 1991, 10-210)

11-211. WINDOW PEEPING. It shall be unlawful for any person to trespass upon the property owned or occupied by another in this city for the purpose of looking or peeping into any window, door, skylight or other opening in a house, room or building, or to loiter in a public street, alley, parking lot or other public place for the purpose of wrongfully observing the actions of occupants of any such house, room or building.

Violation of this section is a Class C violation.
(Code 1975, 13-1014; Code 1991, 10-211)

11-212. LOUD SOUND AMPLIFICATION SYSTEMS PROHIBITED. (a) No person operating or occupying a motor vehicle on a street, highway, alley, parking lot, or driveway shall operate or permit the operation of any sound amplification system from within the vehicles so that the sound is plainly audible at a distance of 50 or more feet from the vehicle.

(b) Sound amplification system - means any radio, tape player, compact disc player, loud speaker, or other electronic device used for the amplification of sound.

(c) Plainly audible - means any sound produced by a sound amplification system from within the vehicle, which clearly can be heard at a distance of 50 feet or more. Measurement standards shall be by the auditory senses, based upon direct line of sight. Words or phrases need not be discernible and bass reverberations are included. The motor vehicle may be stopped, standing, parked or moving on a street, highway, alley, parking lot, or driveway.

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

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

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

(3) The vehicle was owned and Operated by the City of Augusta, or a gas, electric communications or refuse company;

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

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

(Ord. 1636, Sec. 1; Code 2010)

11-213. SAME; PENALTY. Any person, individual, partnership, corporation or association who violates any of the provisions of this ordinance is guilty of an ordinance violation, and upon conviction, shall be punished by a fine not to exceed \$500.00 or by imprisonment of not more than six months, or by both such fine and imprisonment. Each day any violation hereof is found to exist or continues to exist shall be a separate offense and punishable as such hereunder. (Ord. 1636, Sec. 2; Code 2010)

11-214. URINATING/DEFECATING IN PUBLIC PROHIBITED. No person shall urinate or defecate in or upon any street, sidewalk, alley, plaza, park, public building, public property, private parking lot or in any place open to the public or exposed to the public view. This section shall not apply to urination or defecation utilizing appropriate fixtures in any restroom or other facility designed for the sanitary disposal of human waste. (Code 2010)

11-215. SAME; PENALTY. Any person convicted of a violation of this ordinance shall be fined in a sum not to exceed \$500.00 or may be confined for a period of time not to exceed 30 days or by both such fine and imprisonment. (Code 2010)

ARTICLE 3. MOB ACTION

- 11-301. **EMERGENCY; MOB ACTION.** Whenever the city manager or director of public safety or their designee determines that an emergency exists as a result of mob action or other civil disobedience causing danger of injury to or damages to persons or property, he or she shall have the power to impose by proclamation or any or all of the following regulations necessary to preserve the peace and order of the city.
- (a) To impose a curfew upon all or any portion of the city thereby requiring all persons in such designated curfew areas to forthwith remove themselves from the public streets, alleys, parks or public places; provided, that physicians, nurses and ambulance operators performing medical services, utility personnel maintaining essential public services, firefighters and city authorized or requested law enforcement officers and personnel may be exempted from such curfew.
- (b) To order the closing of any business establishments anywhere within the city for the period of emergency, such business to include, but not be limited to, those selling intoxicating liquors, cereal malt beverages, gasoline or firearms.
- (c) To designate any public street, thoroughfare or vehicle parking areas closed to motor vehicles and pedestrian traffic.
- (d) To call upon regular and auxiliary law enforcement agencies and organizations within or without the city to assist in preserving and keeping the peace within the city.
- (Code 1975, 15-501; Code 1991, 10-301)
- 11-302. **PROCLAMATION OF EMERGENCY.** The proclamation of emergency provided herein shall become effective upon its issuance and dissemination to the public by appropriate news media. (Code 1975, 15-502; Code 1991, 10-302)
- 11-303. **TERMINATION.** Any emergency proclaimed in accordance with the provisions of this article shall terminate after 48 hours from the issuance thereof, or upon the issuance of a proclamation determining an emergency no longer exists, whichever occurs first; provided that such emergency may be extended for such additional periods of time as determined necessary by resolution of the governing body. (Code 1975, 15-503; Code 1991, 10-303)
- 11-304. **PENALTY.** Any person who shall willfully fail or refuse to comply with the orders of duly authorized law enforcement officers or personnel charged with the responsibility of enforcing the proclamation of emergency authorized herein shall be deemed guilty of a code violation, and upon conviction therefor, shall be punished by a fine of not more than \$100.00 or by imprisonment for a period of not to exceed six months, or by both such fine and imprisonment. (Code 1975, 15-504; Code 1991, 10-304)

ARTICLE 4. CONTROLLED SUBSTANCES

11-401. UNLAWFUL POSSESSION OR USE OF CERTAIN SUBSTANCES OR DRUGS. Except as authorized by the Uniform Controlled Substances Act, K.S.A. 65-4101 et. seq. and amendments thereto, it shall be unlawful for any person to possess or have under such person*s control:

(a) Any depressant designated in subsection (e) of K.S.A. 65-4105, subsection (e) of K.S.A. 65-4107, subsection (b) or (c) of K.S.A. 65-4109 or subsection (b) of K.S.A. 65-4111, and amendments thereto;

(b) Any stimulant designated in subsection (f) of K.S.A. 65-4105, subsection (d)(2), (d)(4) or (d)(2) of K.S.A. 65-4107 or subsection (e) of K.S.A. 65-4109, and amendments thereto;

(c) Any hallucinogenic drug designated in subsection (d) of K.S.A. 65-4105 and amendments thereto or designated in subsection (g) of K.S.A. 65-41 07 and amendments thereto;

(d) Any substance designated in subsection (g) of K.S.A. 65-4105, and amendments thereto, and designated in subsection (c), (d), (e), (f) or (g) of K.S.A. 65-4111 and amendments thereto; or

(e) Any anabolic steroids as defined in subsection (f) of K.S.A. 65-4109 and amendments thereto.

(Ord. 1917, Sec. 1; Code 2010)

11-402. UNLAWFUL USE OR POSSESSION OF SIMULATED CONTROLLED SUBSTANCES AND DRUG PARAPHERNALIA. No person shall use or possess with the intent to use:

(a) Any simulated controlled substance as defined in K.S.A. 65-4150(e);

(b) Any drug paraphernalia as defined in K.S.A. 65-4150(c) to use, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substances Act of this state, K.S.A. 65-4101 et. seq.; or

(c) Any drug paraphernalia as defined in K.S.A. 65-4150(c) for the planting, propagation, growing or harvesting of less than five marijuana plants.

(Ord. 1917, Sec. 1; Code 2010)

11-403. PENALTIES. (a) Any party found guilty of violating the provisions of this article shall be punished by a fine not less than \$100.00 nor more than \$1000.00 and imprisoned not to exceed 180 days. Upon a second conviction of violating the provisions of this article with the exception of a violation of section 11-401 where the substance is marijuana, the fine shall be not less than \$200.00 nor more than \$1,000.00 and a sentence of imprisonment of at least five (5) days but not to exceed 180 days with no probation to be granted until five (5) days have been served.

(b) In addition to the sentence provided for above, the costs associated with any chemical tests of a controlled substance together with the costs associated with the introduction of evidence concerning such testing shall be assessed as court costs and shall be recoverable from the defendant if convicted.

(Ord. 1917, Sec. 1; Code 2010)

CHAPTER XII. PUBLIC PROPERTY

- Article 1. General Provisions
 - Article 2. Santa Fe Lake and Park
 - Article 3. Lake Augusta-Garvin Park
 - Article 4. City Swimming Pool
 - Article 5. Elmwood Cemetery
-

ARTICLE 1. GENERAL PROVISIONS

- 12-101. CITY OF AUGUSTA PARK SYSTEM. As provided and allowed by K.S.A. 12-1301 et seq., the city may from time to time designate certain areas of the city to be a part of the city park system. The use of all lands which are within the park system shall be regulated and controlled by these ordinances and such rules and regulations as may be adopted. (Ord. 1575; Code 1991, 11-101)
- 12-102. PARK BOARD; AUTHORITY. There shall be appointed by the governing body a park board which shall have the responsibility and authority to regulate the use of the land and property which are a part of the city park system. The park board shall have the authority to adopt certain rules and regulations which set forth standards of conduct and activities which are permitted or prohibited within the park system. All such rules and regulations shall be on file with the city clerk. (Ord. 1575; Code 1991, 11-102)
- 12-103. FIRE PROHIBITED; EXCEPTIONS. The building or starting of fires is prohibited in the park system except in places designated as picnic areas and then only in fireplaces, grills or other utensils specifically designed to hold and contain fires or as may be further permitted by the park board. (Ord. 1575; Code 1991, 11-103)
- 12-104. DRIVING REGULATIONS. It shall be unlawful for vehicles to be driven or parked except in the designated roadways and parking areas of the city park system. The city manager shall cause to be posted speed limits and other driving regulations which apply to the park system. All other driving shall be governed by the traffic code of the city. (Ord. 1575; Code 1991, 11-106)
- 12-105. HOURS AVAILABLE. The city manager shall cause to be posted in each area of the park system the hours that the public shall be allowed access to the specific area of the park system. If no hours are posted the specific area shall be available to the public at all times. (Ord. 1575; Code 1991, 11-107)
- 12-106. FISHING LICENSES REQUIRED; EXCEPTIONS. All persons fishing by any means in Lake Augusta, Santa Fe Lake or any other water within the park system of the city shall be required to obtain a city fishing license as provided by the rules and regulations pertaining thereto. The licenses may be obtained from the city

clerk or any other person authorized by the city to issue licenses and such license shall entitle the holder to fish in all waters within the park system. Any resident age 65 or older or under the age of 16 years shall not be required to obtain a license to fish in the park system. (Ord. 1575; Code 1991, 11-108)

12-107. SAFETY EQUIPMENT. Any person boating on a lake under control of the City of Augusta shall provide a life preserver of a jacket type only, coast guard approved, and all such persons shall wear the same while in any boat while under sail or under power. (Ord. 1575; Code 1991, 11-306)

12-108. PENALTY. Any citations issued pursuant to the provisions as detailed in this chapter shall be handled in accordance with the general penalty provisions as established in section 1-116 of this code. (Code 2010)

ARTICLE 2. SANTA FE LAKE AND PARK

- 12-201. **SANTA FE LAKE AND PARK PROPERTY.** The area known as Santa Fe Lake and Park containing 418 acres and consisting of Sections 11, 12 and 13, Township 27, Range 3 East, Butler County, Kansas and is part of the city park system. (Ord. 1575; Code 1991, 11-201)
- 12-202. **PERMITS; INDIVIDUAL AND GROUPS.** All persons using Santa Fe Lake facilities for the purpose of fishing, swimming, boating, skiing, picnicking, camping or recreation will obtain a recreation permit from an authorized representative of the City. The recreation permit shall allow an individual or family to utilize the facilities. Upon purchase of recreation permits a decal will be furnished to use as identification to enter the park area. Additional decals for extra family vehicles or lost decals can be purchased. Sightseeing or inspection of the premises does not require a permit.
Organized group activities may utilize the lake using a group daily permit, however organized groups that are for commercial activity and charge entry fees must receive approval from the City Manager. (Ord. 1620, Sec. 1; Code 2010)
- 12-203. **BOAT PERMITS.** Permits will be issued only to boats that display the state registration number as required by the Kansas Department of Wildlife and Parks. Santa Fe Lake users shall comply with boat safety requirements as promulgated by state agencies and as applies to state lakes. (Ord. 1620, Sec. 1; Code 2010)
- 12-204. **SPEED LIMIT FOR BOATS.** A speed limit of five mph will be in effect for all boats operating in the dock and swimming area at all hours and at all parts of the lake after sunset. (Ord. 1575; Code 1991, 11-204)
- 12-205. **REVOCAION OF BOATING LICENSE AND PARK PRIVILEGES.** The city manager and park caretaker shall have the right to revoke all privileges for any person, group or organization for violation of ordinances, rules or regulations of the city. (Ord. 1575; Code 1991, 11-205)
- 12-206. **SPECIAL EVENTS.** Special events will be allowed and are encouraged. All special events must be approved by the city manager in writing. (Ord. 1575; Code 1991, 11-206)
- 12-207. **SWIMMING REGULATIONS.** Swimming shall only be permitted in Santa Fe Lake in such areas as are specifically posted. The park board shall have the right to make rules and regulations relating to swimming including but not limited to the right to fix times and locations that swimming may be permitted and under what conditions and other regulations swimming is allowed. Those regulations shall be on file with the city clerk and the caretaker of Santa Fe Lake and park. (Ord. 1575; Code 1991, 11-207; Code 2010)

ARTICLE 3. LAKE AUGUSTA-GARVIN PARK

- 12-301. LAKE AUGUSTA-GARVIN PARK. The area known as Garvin Park-Lake Augusta and all surrounding lands owned by the city are hereby declared to be a part of the park system of the city. (Ord. 1575; Code 1991, 11-301)
- 12-302. FISHING PERMITTED; RIGHTS RESERVED BY CITY. Fishing shall be permitted during the seasons established by the laws of the State of Kansas and pursuant to the rules and regulations of the Kansas Department of Wildlife and Parks, which laws, rules and regulations are hereby adopted and incorporated by reference herein, insofar as such laws, rules and regulations are not in conflict with this article or any amendment thereof; provided, that the city, and more specifically the governing body thereof, recognizes and declares that Lake Augusta is of prime importance to the municipal water supply system of the city and hereby reserves the right to amend, repeal and withdraw all fishing privileges and rights to Lake Augusta without notice and without the necessity of refunding any sum paid by any person under the licensing provisions hereof. (Ord. 1575; Code 1991, 11-302; Code 2010)
- 12-303. ILLEGAL FISHING AND BAITING PROHIBITED. Fishing with seine, trammel net or any other type of net device, trotline, bank line, hand fishing or "noodling" or any other type of fishing other than with a pole and line shall be illegal. It shall be unlawful for any person to throw any surplus minnows or other bait, trash, dead fish, garbage or excretion into the lake or upon the lake property and the baiting of fishing holes is specifically prohibited. (Ord. 1575; Code 1991, 11-303)
- 12-304. HOURS FISHING PERMITTED. Lake Augusta shall be opened for fishing at all reasonable times, except that the park board, in its discretion, may from time to time during the year establish closing hours when the lake or any portion thereof shall be closed for fishing by posting notice at the entrance to Lake Augusta of such closing hours, and it shall be unlawful for any person to fish in the lake during such posted closing hours. (Ord. 1575; Code 1991, 11-304)
- 12-305. BOATS; PERMITTED, RESTRICTIONS. All boats of any type or nature shall be permitted on Lake Augusta-Garvin Park except that sailboats shall not exceed 16 feet in length and powered boats of any type shall not have on board a motor or means of propulsion greater than 10 horsepower. All rubber rafts, houseboats or other boats with toilet facilities shall be prohibited. Such boating privileges shall be confined to the citizens of the City of Augusta and Augusta township. (Ord. 1575; Ord. 1597, Sec. 1; Code 1991, 11-305)
- 12-306. MINORS IN BOATS ON LAKE AUGUSTA-GARVIN PARK; RESTRICTIONS. No minor under the age of 16 years shall be permitted to occupy any boat on the lake unless accompanied by an adult person 18 years of age or older. (Ord. 1791, Sec. 1; Code 2010)
- 12-307. BOAT DOCKS PROHIBITED. Nothing herein shall be construed as permitting the construction or installation of any temporary or permanent docking facilities on Lake Augusta, and any person launching a boat from a boat trailer

shall immediately upon the launching of the same remove the boat trailer beyond the waterline of the lake. (Ord. 1575; Code 1991, 11-307)

12-308. BOATS LEFT UNACCOMPANIED PROHIBITED. Any person removing a boat from the lake shall not leave the same on the lake or park property unless the same is accompanied by an adult person. (Ord. 1575; Code 1991, 11-308)

12-309. HOURS OF BOATING. Boating shall be permitted at all times except when the park board, in its discretion, has posted closing hours for fishing on all or any portion of the lake or when the park board shall deem boating to be dangerous for any reason whatsoever; provided, that sailboats shall be permitted only between the hours of dawn and dusk. (Ord. 1575; Code 1991, 11-309)

12-310. BOATING LICENSES. It shall be unlawful for any person to boat upon Lake Augusta without first having obtained a license in the manner hereinafter prescribed from the city. Prior to the issuance of such license the person issuing such shall receive an application containing information as may be required from time to time. The annual fees for licensing a boat shall be established by resolution of the governing body. (Ord. 1575; Code 1991, 11-310; Code 2010)

12-311. SPEED LIMIT FOR BOATS. It shall be unlawful for any person to operate any power boat at any time in a speed in excess of five miles per hour. (Ord. 1575; Code 1991, 11-311)

12-312. BOATING; LIMITED AREA OF OPERATION. No boat shall be operated at any time any closer than 150 feet from the dam and spillway. (Ord. 1575; Code 1991, 11-312)

12-313. BOATS; LAUNCHING LIMITATIONS. No boat shall be launched from any point, in any case, closer than 300 feet from any residence and, in the event that the park board shall designate a launch point no boat shall be launched at any place other than at such point or points. (Ord. 1575; Code 1991, 11-313)

12-314. PROHIBITION OF BOATING PRIVILEGES; NON-ASSIGNABILITY OF LICENSES. Nothing herein shall be construed as permitting licenses issued hereunder to be assigned to any person or to any boat other than the persons or boats licensed and nothing herein shall be construed as preventing the city from prohibiting, limiting or curtailing any and all boating operations without being obligated to furnish any refund on any license fee; provided, that such prohibitions, limitations or curtailment is made for the purpose of protecting the public's health, safety or welfare. (Ord. 1575; Code 1991, 11-314)

12-315. WADING AND SWIMMING PROHIBITED; EXCEPTION. It shall be unlawful for any person to swim, wade or hunt or discharge firearms or to engage in camping on or about Lake Augusta-Garvin Park; provided, that any person over 16 years of age may wade in the lake for the sole and only purpose of recovering fishing equipment lost or snagged in the lake. (Ord. 1575; Code 1991, 11-315)

12-316. REVOCAION OF LICENSES. Any public safety officer, caretaker or any other person authorized by the city to enforce this article shall have the power to revoke any license issued hereunder or to exclude or reject any person from the premises when such person or holder of license in the sound discretion of the safety officer, caretaker or other authorized person is found to be violating any section of this article and such person or holder of license shall not be entitled to re-enter the park except with the consent of a majority of the governing body. (Ord. 1575; Code 1991, 11-316)

12-317 BEING ON THE LAKES WHEN FROZEN OR THROWING OBJECTS UPON THE LAKES WHEN FROZEN PROHIBITED. It shall be unlawful for any person to be upon the surface of Lake Augusta-Garvin Park or Santa Fe Lake, when the surface is frozen, partially or completely, or appears to be frozen, whether on foot or using a devise to move across the surface of the lake. Further, it shall be unlawful to throw, cast upon or propel any object upon the surface of the lake when the surface is frozen or appears to be frozen. (Ord. 1996; Code 2010)

ARTICLE 4. CITY SWIMMING POOL

12-401. CITY SWIMMING POOL. The area commonly referred to as the city swimming pool and all surrounding land is hereby declared to be a part of the park system of the city. (Ord. 1575; Code 1991, 11-401)

12-402. CITY SWIMMING POOL REGULATIONS. The park board shall adopt and amend annually the rules and regulations for the operation of the city swimming pool. Such rules and regulations shall be reduced to writing and no less than three copies shall be on file with the city clerk for inspection by the public at all reasonable hours. A copy of such rules and regulations shall also be kept by the manager of the city swimming pool. (Ord. 1575; Code 1991, 11-402)

ARTICLE 5. ELMWOOD CEMETERY

- 12-501. **NAME OF CEMETERY.** The cemetery heretofore acquired by the city and named "Elmwood Cemetery" shall be hereinafter referred to this article as the cemetery. (Code 1975, 6-101; Code 1991, 11-501)
- 12-502. **CITY MANAGER'S DUTIES; APPOINT SEXTON.** The city manager may appoint a sexton and have duties as follows:
 (a) The city manager shall cause the cemetery rules and regulations as fixed by the governing body to be observed and fully complied with by his or her subordinates and owners of cemetery lots.
 (b) The city manager may appoint a suitable and competent person to act as sexton of the cemetery, and to have immediate care of cemetery grounds and lots. The city manager may also employ such other persons as may be necessary for the proper care, maintenance and operation of the cemetery.
(Code 1975, 6-102; Code 1991, 11-502)
- 12-503. **SEXTON; DUTIES.** The sexton shall have the custody and care of all personal property of the city in or about the cemetery. He or she shall cause all persons within the cemetery to observe the rules and regulations pertaining to conduct therein and the care and adornment of cemetery lots. He or she and/or any assistant(s) shall make such reports of any burials as may be required. (Code 1975, 6-103; Code 1991, 11-503)
- 12-504. **CITY CLERK'S DUTIES.** The city clerk shall have the custody and keeping of the original and official cemetery records of lots, conveyances, owners and interments in the cemetery and shall keep an official plat of the cemetery in his or her office. He or she shall collect and account for cemetery funds from the sale of lots or received from other sources and shall issue all cemetery deeds and permits as authorized by law or ordinance. (Code 1975, 6-104; Code 1991, 11-504)
- 12-505. **PLAT.** The plat of Elmwood Cemetery shall be kept on file in the office of the city clerk and the same is hereby accepted and approved. The sale price of all unsold lots or parts thereof as the same shall be fixed by the governing body shall be plainly marked on the plat and the same shall at all times during office hours be subject to inspection by the public upon request therefore. (Code 1975, 6-201; Code 1991, 11-505)
- 12-506. **RULES AND REGULATIONS ADOPTED.** The rules and regulations hereinafter set forth are hereby adopted and established as the rules regulating, governing and protecting Elmwood Cemetery (including both the old and the new sections), and the grounds thereof, and the owners of the lots therein, visitors thereof, and regulating the enclosing, adorning and erecting of monuments and tombstones on cemetery lots, and the improvements on the grounds of the cemetery. (Code 1975, 6-202; Code 1991, 11-506)
- 12-507. **LOTS HELD SUBJECT TO RULES.** All lots in Elmwood Cemetery or additions thereto shall be held subject to the rules and regulations of the governing body herein set forth, or such as may hereafter, from time to time, be adopted by

the governing body for the government and regulation of the cemetery, and grounds thereof, and such lots shall not be used for any purpose other than as the burial place of the human dead. (Code 1975, 6-203; Code 1991, 11-507)

12-508. TRANSFER OF LOTS. Proprietors holding deeds for lots in Elmwood Cemetery shall not allow interments on their lots for a remuneration or pecuniary consideration, nor shall any transfer of any lot or interest therein be valid without executing a written conveyance thereof on forms supplied by the city clerk who shall enter the same on records of his or her office. (Code 1975, 6-105; Code 1991, 11-508)

12-509. BURIAL PERMITS. No interment or burial shall be made in Elmwood Cemetery or any other cemetery grounds of the city without a burial permit therefore, issued by the local registrar of vital statistics as provided by law. The sexton shall not inter or permit the interment of any dead body unless it be accompanied by a permit as required by law. He or she shall make the return of such permit to the local registrar and shall keep a cemetery record of all interments as required by law. (Code 1975, 6-206; Code 1991, 11-509)

12-510. BURIAL. When a lot is held jointly, a permit for interment may be granted to either owner of his or her heirs. One full burial, two cremations, or one full burial and one cremation may be made in each grave space. (Code 1975, 6-208; Code 1991, 11-510; Code 2010)

12-511. SUPERVISION BY SEXTON. All workmen employed by lot owners in the construction of structures, erection of monuments and in performance of all other work, shall be subject to the control of the sexton, and on refusal of such person or persons to be thus controlled, or comply with the rules, he, she or they so refusing or failing so to do shall not be permitted by the sexton to work within the grounds of the cemetery. (Code 1975, 6-209; Code 1991, 11-511)

12-512. TREES, SHRUBS, FENCES. No lot or parcel of ground in the cemetery shall be defined by any fence, railing, coping, embankment or ditch. No trees, shrubbery or plants shall be planted or permitted to grow upon any lots in the cemetery, and no structure, rock work or other architectural object shall be permitted on any lot or parcel of ground in the cemetery, except as authorized and approved by the city manager. In case of violation of this rule, the sexton under the direction of the city manager shall have the right to enter upon the lot or ground and remove or cause to be removed the violation. (Code 1975, 6-210; Code 1991, 11-512)

12-513. MONUMENTS. No monuments or other structures shall be placed upon any lot until a design of the same, with specifications, has been submitted to and accepted by the sexton, and the location thereof on the lot approved by him or her. Only one monument will be permitted on a platted lot, where full lots only are sold, or half lots, where lots are divided, placed at the head of the graves in line with the monuments on other neighboring lots. (Code 1975, 6-211; Code 1991, 11-513)

- 12-514. MONUMENTS AND MARKERS. Stones marking individual graves on lots where there is a large monument, must be made of marble, granite or some other permanent material approved by the sexton, and shall have the outer surface set in line with the markers on other graves and only one marker shall be permitted on any grave. (Code 1975, 6-212; Code 1991, 11-514)
- 12-515. WOODEN MARKERS PROHIBITED. Wooden markers of every description are prohibited. (Code 1975, 6-213; Code 1991, 11-515)
- 12-516. MOUNDS. Mounds over graves shall not exceed four inches in height when thoroughly settled. (Code 1975, 6-214; Code 1991, 11-516)
- 12-517. FOUNDATIONS. All foundations of monuments, headstones, etc., placed in the cemetery shall be constructed in a substantial manner approved by the city under the direction and supervision of the sexton. (Code 1975, 6-215; Code 1991, 11-517)
- 12-518. ADVERTISING PROHIBITED. No advertisement in any form will be permitted in the cemetery. (Code 1975, 6-216; Code 1991, 11-518)
- 12-519. PROCESSIONS. On entering, and while within the cemetery, funeral processions will be entirely under the control and direction of the sexton or his or her assistant(s). It shall be unlawful to drive a motor vehicle within the cemetery except upon the streets or roadways therein. (Code 1975, 6-217; Code 1991, 11-519)
- 12-520. BURIAL ON SUNDAY PROHIBITED; EXCEPTIONS. The city clerk shall issue no permit for a burial or interment in Elmwood Cemetery or in the mausoleum to be held on the first day of the week commonly termed Sunday, except in cases of extreme hardship, and then only with the approval of the city manager. (Code 1975, 6-218; Code 1991, 11-520)
- 12-521. DEFACING IMPROVEMENTS. Any person or persons digging, removing or carrying away any earth, sod, flower, shrub or ornament of any kind whatsoever from the cemetery or any cemetery over which the city has jurisdiction, without the consent of the sexton or any person who shall intentionally, carelessly, wantonly or maliciously deface, injure or destroy any monument, urn, ornament, tree, shrubbery or flower in any cemetery over which the city shall have jurisdiction shall be deemed guilty of a code violation. (Code 1975, 6-220; Code 1991, 11-521)
- 12-522. VEHICLES; SPEED LIMITS; FIREARMS; FIREWORKS; PROHIBITED. All persons are hereby forbidden to ride or drive in the cemetery grounds or avenues thereof, faster than 15 miles per hour, and no picnic or party with refreshments, or persons with firearms or fireworks shall be permitted to enter the cemetery or the grounds thereof except that firing squads will be permitted in the cemetery on ceremonial functions. (Code 1975, 6-221; Code 1991, 11-522)
- 12-523. BURIAL. The city manager is hereby authorized to contract for the opening of graves within the cemetery. All graves will be opened in accordance with

specifications set by law and as directed by the sexton. Payment for the opening of any grave shall be paid to the city clerk prior to the grave being opened and the fee shall be credited to the general operating fund of the city and be used for the payment of the grave opening contract. (Code 1975, 6-222; Code 1991, 11-523)

12-524. MAINTENANCE; REGULAR CARE. General maintenance of all lots in the municipal cemeteries, at no cost to the lot owners, shall be known as regular care and shall include the maintenance of a reasonable stand of grass, raking and cleaning, filling settled graves and reasonable attention to any planting thereon which are in accordance with the rules and regulations governing the cemetery. (Code 1975, 6-223; Code 1991, 11-524)

12-525. MAINTENANCE; SPECIAL LOT CARE. When a lot holder deems the regular care of a lot in the municipal cemeteries is not sufficient to gratify his or her wishes, he or she may order such improvements and care as he or she desires, so long as it conforms with the rules and regulations governing municipal cemeteries. Such care and improvements shall be known as special lot care and arrangements therefor shall be made by agreement with the sexton. Special fees paid therefor shall be paid to the city clerk and credited to the general operating fund of the city. (Code 1975, 6-225; Code 1991, 11-525)

12-526. TIMES AVAILABLE TO THE PUBLIC. All areas under the ownership or control of the city used as a cemetery shall be opened to the general public for the hours of the day from dawn until dusk and no person shall be upon any of the premises included within such areas during the prohibited periods except in the lawful exercise of duties to be discharged on behalf of the city. (Code 1975, 6-226; Code 1991, 11-526)

12-527. PROHIBITED USES. During the permitted hours as set forth in section 12-526 of this article, the cemetery properties shall be used only for the purposes of burial and matters in direct relation thereto and such areas shall not be used for any other purpose, including but not limited to recreational activities or any other group functions except gatherings for the purposes of memorials and other activities to pay respect to the dead. (Code 1975, 6-227; Code 1991, 11-527)

12-528. MAUSOLEUMS; RULES AND REGULATIONS ADOPTED. The rules and regulations as hereinafter set forth are hereby adopted for the management, regulation and control of mausoleums in Elmwood Cemetery. (Code 1975, 6-301; Code 1991, 11-528)

12-529. SAME; TRANSFER OF CRYPTS. The crypts in the mausoleum shall only be transferred and conveyed in the same manner as cemetery lots are transferred and conveyed. (Code 1975, 6-302; Code 1991, 11-529)

12-530. SAME; RECORD. The city clerk shall provide a record book in which shall be kept in a proper, accurate and definite form the names of all crypt owners, description of crypts, and upon which shall be entered from time to time any transfer or conveyance of such crypts, which shall include a description of the crypt or crypts, the names of the owner or owners, the date on which any

certificate is surrendered for cancellation and the date, number of the new certificate issued, together with the name of the prior owner, the name of the new owner, and a description of the crypt or crypts so conveyed, together with the address of the new owner thereof. All certificates surrendered shall be stamped or marked canceled by the city clerk and preserved in the files of his or her office. (Code 1975, 6-303; Code 1991, 11-530)

12-531. SAME; EMBALMING. All bodies must be properly embalmed before interment in any crypt. (Code 1975, 6-304; Code 1991, 11-531)

12-532. SAME; RIGHT TO INTER. Interment of any bodies is hereby prohibited except upon the written order from the owner or owners of the crypt or his, her or their proper representatives duly authorized in writing. (Code 1975, 6-305; Code 1991, 11-532)

12-533. SAME; CERTIFICATE OF DEATH. Proper certificates of death and burial permits must accompany all bodies before the interment takes place. (Code 1975, 6-306; Code 1991, 11-533)

12-534. SAME; OPENING AND CLOSING OF CRYPTS. All crypts will be opened and closed only by the sexton of the cemetery or authorized representatives. (Code 1975, 6-307; Code 1991, 11-534)

12-535. SAME; NUMBER OF BODIES. Not more than one body may be interred or deposited in any crypt except in the case of a mother and one or more infants born at the time of her death, which may be placed in the same casket; or where bodies are disinterred, and in that event not more than three may be placed in the same crypt. Before any such interment as in this regulation provided, the name or names of the bodies must be furnished in writing to the city clerk. (Code 1975, 6-308; Code 1991, 11-535)

12-536. SAME; FLOWERS. Flowers, wreaths or other designs will be removed by the sexton immediately following the funeral to prevent staining the marble and to keep the mausoleums in a sanitary condition. The family or relatives of the deceased may remove or arrange for the removal of the flowers immediately after the funeral if they so desire. (Code 1975, 6-309; Code 1991, 11-536)

12-537. SAME; VASES. All vases left in the mausoleums will be at the risk of the owner and may be removed in the discretion of the sexton. No person shall be permitted to place in or about the crypt or crypts any cans or any unsightly receptacles or anything unsightly before any crypt in the mausoleums. (Code 1976, 6-310; Code 1991, 11-537)

12-538. SAME; CHAIRS. Neither chairs nor settees shall be permitted or allowed in the corridors except during funeral services. (Code 1975, 6-311; Code 1991, 11-538)

12-539. SAME; TIMES AVAILABLE TO THE PUBLIC. All areas under the ownership or control of the city which are used as mausoleum shall be opened to the general

public for the hours of the day from dawn until dusk and no person shall be upon any of the premises included within such areas during the prohibited periods except in the lawful exercise of duties to be discharged on behalf of the city. (Code 1975, 6-313; Code 1991, 11-539)

- 12-540. SAME; PROHIBITED USES. During the permitted hours, as set forth in section 12-539 of this article, the mausoleum properties shall be used only for the purposes of burial and matters in direct relation thereto and such areas shall not be used for any other purpose, including but not limited to recreational activities or any other group functions except gatherings for the purposes of memorials and other activities to pay respect to the dead. (Code 1975, 6-314; Code 1991, 11-540)
- 12-541. PRICE OF GRAVE SPACES. Grave spaces for burial located in the Augusta Cemetery and all additions and extensions thereto shall be sold for such prices as may, from time to time, be established by Resolution of the Governing Body of the City of Augusta, Kansas. Grave spaces may be sold individually or in such numbers as are available collectively. (Ord. 1827, Sec. 1; Code 2010)
- 12-542. DISBURSEMENT OF FUNDS. All funds derived from the sale of grave spaces in the City Cemetery of the City of Augusta, Kansas which exceed the sum of \$100.00 shall be placed in the Endowment Fund for the City Cemetery. The remaining sum shall be placed in the general operating fund of the City for use in the maintenance and upkeep of the City Cemetery and its additions and extensions. (Ord. 1827, Sec. 2; Code 2010)
- 12-543. FEES FOR OPENING AND CLOSING GRAVES. The charges and fees for opening and closing a grave site, shall be established, from time to time, by Resolution of the Governing Body of the City of Augusta, Kansas. (Ord. 1827, Sec. 3; Code 2010)
- 12-544. REQUIREMENTS FOR VAULTS OR CASKETS. No burial shall be performed in the City Cemetery of the City of Augusta, Kansas with a wooden vault or casket enclosure or any enclosure of any material which is likely to deteriorate or cause the grave to collapse. (Ord. 1827, Sec. 4; Code 2010)
- 12-545. FLOWERS AND ADORNMENTS. Fresh cut flowers may be placed on or adjacent to graves at any time. Artificial flowers, not in a permanent floral container, may be placed on or adjacent to graves only during the period from November 1 to the following March 1 and for a period of three (3) days prior to any Memorial Day and including ten (10) days following such Memorial Day. March 1 to November 1 is mowing season and any grave left unattended for a period of thirty (30) days will be maintained to cemetery specifications. At other times artificial flowers may be placed on and adjacent to graves if placed in an approved permanent floral display container. No glass object of any nature shall be placed on graves at any time. The sexton shall be authorized to cause removal and disposal of items not previously permitted or in conformity herewith and is further authorized to cause the removal and disposal of any wilted cut flowers and any artificial flowers which have become broken, faded or otherwise dilapidated in

order to prevent the littering of the cemetery grounds. (Ord. 1827, Sec. 5; Code 2010)

- 12-546. **STONES, MARKERS, FLORAL DISPLAY FIXTURES AND CONTAINERS.** Owners of lots and grave sites may at their own expense, erect grave markers, stones, monuments and permanent floral display fixtures, containers or urns provided such are set in a foundation or footing of concrete in a good workmanlike manner, so as to assure permanence of location and position. Monuments commonly known as Above Ground Vaults are strictly prohibited from being placed in the cemetery. Further such owner, heirs and assigns, shall maintain the same in good repair at their own expense. Further the same shall not be offensive in nature or such that would detract from the dignity of a place of burial or as would constitute a hazard to cemetery personnel or the public. In the event such items fall into disrepair or become damaged beyond repair the sexton shall be authorized to cause their removal. Such removal shall be the responsibility of the owner within ten (10) days after notification by the sexton. If, however, the sexton is unable to locate the owner or the owner fails to respond to such notice the sexton may proceed with such removal. (Ord. 1827, Sec. 6; Code 2010)
- 12-547. **CHARGES FOR SEALING CRYPT.** The charges and fees for sealing a crypt shall be established, from time to time, by Resolution of the Governing Body of the City of Augusta, Kansas. (Ord. 1827, Sec. 7; Code 2010)
- 12-548. **MONUMENT PERMIT.** Monument Permits shall be issued by the City Clerk for the setting, placing or installing of any monument, headstone or other approved marker. The charges and fees for issuing a Monument License and the penalty for violating this section shall be established, from time to time, by Resolution of the Governing Body of the City of Augusta, Kansas. (Ord. 1827, Sec. 8; Code 2010)
- 12-549. **ACTS PROHIBITED.** No headstones, monuments or other markers of any type or nature shall be set, placed or installed upon any grave in the cemetery of the city without having first obtained a permit. (Ord. 1307, Sec. 1; Code 1991, 11-558)
- 12-550. **LICENSES.** Licenses shall be issued by the city clerk of the setting, placing or installing of any monument, headstone or other marker by a fee established from time to time by Resolution of the Governing Body of the City of Augusta, Kansas. (Ord. 1307, Sec. 2; Code 1991, 11-559; Code 2010)
- 12-551. **CONDITION PRECEDENT TO ISSUANCE OF A LICENSE.** Any person applying for a license, as herein provided, shall indicate the type of material to be used and method of installation, placing or setting of such monument, headstone or other marker which shall be in writing and delivered to the city clerk. Such license shall not be issued unless the method set forth in the application shall comply with the rules and regulations of the city to be promulgated, from time to time, by the city manager. If the method to be used shall be acceptable, then such license shall be issued forthwith. (Ord. 1307, Sec. 3; Code 1991, 11-560)

- 12-552. INSPECTING AND COMPLIANCE WITH APPLICATION. During the installation, setting or placing of such monument, headstone or other marker the same shall be subject to inspection by the sexton of the city and the sexton shall have the right to require compliance with the method outlined in the application. (Ord. 1307, Sec. 4; Code 1991, 11-561)
- 12-553. REMOVAL OF HEADSTONE, MONUMENT OR OTHER MARKER. In the event that the headstone, monument or other marker shall to be placed, set or installed as approved upon the issuance of a license, then the city shall notify the person procuring the license to have the same reinstalled, reset or replaced and if the same shall not be so accomplished within a period of 30 days then the city shall have the right to remove such marker, headstone or monument and dispose of it without liability unto the licensee. (Ord. 1307, Sec. 5; Code 1991, 11-562)
- 12-554. ENDOWMENT FUND; CREATION. There shall be established a cemetery endowment fund for the purpose of caring for the Elmwood Cemetery which shall be held by the city clerk. (Ord. 1398, Sec. 1; Code 1991, 11-563)
- 12-555. SAME; CONTRIBUTIONS. The source of funds for the cemetery endowment fund shall be voluntary contributions from any person, proceeds from the sale of grave spaces and burial permits and the city clerk shall be authorized to receive such monies and place the same in the fund to be administered by law. (Ord. 1398, Sec. 2; Code 1991, 11-564)
- 12-556. SAME; INVESTMENT. All monies coming into the endowment fund shall be invested as provided in K.S.A. 12-1410 as the same may be amended from time to time hereafter. The investments to be made, within the limits aforesaid, shall be determined by a committee composed of the mayor, city manager and city clerk. (Ord. 1398, Sec. 3; Code 1991, 11-565)
- 12-557. SAME; BOND OF CITY CLERK. The city clerk shall include in his or her bond for faithful performance double the amount of the endowment fund on hand when he or she shall take his or her official oath of office and such bond may be combined with any other bond given by the city clerk or may be a bond for the purpose of the endowment fund singly. (Ord. 1398, Sec. 5; Code 1991, 11-566)

CHAPTER XIII. STREETS AND SIDEWALKS

- Article 1. Sidewalks
- Article 2. Pavement, Curbs and Street Regulations
- Article 3. Street Use Regulations
- Article 4. Special Regulations; Certain Streets
- Article 5. Snow and Ice

ARTICLE 1. SIDEWALKS

- 13-101. **PERMIT REQUIRED.** It shall be unlawful to construct, reconstruct or repair any sidewalk within the city until a permit is issued for such work by the city inspector. (Code 1991; Code 2010)
- 13-102. **SIDEWALK GRADE.** Hereafter all sidewalks constructed or reconstructed in the city shall be constructed on the established grade. When the governing body shall order a sidewalk constructed as hereafter provided, the city shall pay the cost of bringing the street to grade for the sidewalk. Where no grade has been established, the owner of abutting property may construct a sidewalk on the natural grade. If the grade has been established, the city inspector 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 1975, 17-102; Code 1991)
- 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 1975, 17-101; Code 1991)
- 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 1975, 17-104; Code 1991)
- 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 1975, 17-105; Code 1991)

- 13-106. NOTICE; PUBLICATION. The resolution providing for the construction or reconstruction of a sidewalk, shall give the owner of the abutting property not less than 30 days or 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 1975, 17-106; Code 1991; Code 2010)
- 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 1975, 17-107; Code 1991)
- 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 1975, 17-108; Code 1991)
- 13-109. 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 1991)
- 13-110. SAME; EXCEPTION. The governing body may authorize the granting of temporary permits in connection with a building or moving permit for limited times only to the owner of property abutting on any sidewalk to use or encumber such sidewalk or public way of the city during the construction of any building or improvement thereon. No permit shall be issued for such purpose until plans for warning and safeguarding the public during such use of sidewalks shall have been submitted by the owner or his or her contractor and approved by the governing body. (Code 1991)

ARTICLE 2. PAVEMENT, CURBS AND STREET REGULATIONS

- 13-201. **CUTTING PAVEMENTS, CURBS, SIDEWALKS.** It shall be unlawful for any person to cut pavements, curbs or sidewalks or remove the same or make excavation in the streets, alleys or public ways of the city for any purpose without first applying for and receiving a permit from the city inspector. (Code 1975 17-201; Code 2010)
- 13-202. **PERMIT; HOW SERVED.** Any person desiring to obtain a permit for the purposes of section 13-201 of this article shall make an application to the city inspector describing the work to be done and the location thereof. Upon approval by the city inspector, the city clerk shall issue a permit to the applicant and shall supply the applicant with a copy of the specifications established, if any, for the doing of such work. (Code 1975, 17-202; Code 2010)
- 13-203. **WORK TO BE DONE AT EXPENSE OF PERMIT HOLDER.** All curbs, pavements, sidewalks or excavations in streets, alleys or public ways are to be cut or removed, or cut and replaced at the expense of the person holding the permit for such work, the same to be done in accordance with the specifications, if any, furnished by the city engineer. (Code 1975, 17-203; Code 2010)
- 13-204. **CUTTING PAVEMENT; HOW.** When the condition of the sidewalk or pavement, in the opinion of the city engineer, requires it, the pavement or sidewalk shall be cut by the use of a concrete saw; provided, that the city may supply such cutting equipment with an operator at a fee sufficient to pay the reasonable cost of labor and replacement of the equipment. (Code 1975, 17-204)
- 13-205. **RECONSTRUCTION OF PAVEMENT OR SIDEWALK.** The sums hereinbefore required to be paid to the city shall be used for the replacement of the surface of paved or improved streets, alleys or sidewalks in accordance with the plans and specifications of the city therefor. All such work shall be done by employees of the city under the direction of the street superintendent; provided, that the street superintendent may require that contractors shall backfill, with well tamped material, all excavations in dirt, gravel, sealed earth and sidewalk locations and if the same is not done to the reasonable satisfaction of the street superintendent, the completion may be done by the city and the cost of the same shall be paid by the contractors. (Code 1975, 17-205)
- 13-206. **EXCAVATIONS; BARRICADES; LIGHTS.** It shall be unlawful for any person to make any excavation in any street, alley, sidewalk or public way of the city without a permit thereof or to leave any excavation, building material, vehicle, stones, bricks, other materials or obstructions in or on any street, alley, sidewalk or public way in the city during the course of any work, unless the same be protected by barricades at all times or in the nighttime unless the excavation, building materials or obstruction is guarded with red lanterns or flares, sufficient in number and so located as to guard and warn vehicles and passers-by of the extent and danger of such excavation or obstruction. Such lights shall be illuminated before dark and left burning during the nighttime; provided, that it shall be the duty of any officer or any employee of the city having charge of any of the foregoing work, to

place suitable warning signs and barricades to guard the public against injury and in the nighttime to keep and maintain a sufficient number of warning lights as in the case of other persons provided further, that the street superintendent is authorized to direct the placing any barricade, warning sign or lights herein required, and he or she may, if the public safety requires it, during the progress of any such work, close off the public street or sidewalk or any portion thereof to prevent public use of the same; provided further, that any person holding a permit to cut streets or sidewalks shall not be released from any obligation to barricade, light and otherwise guard or warn vehicles or passers-by of the extent and danger of the excavation until 24 hours after notification has been given to the street superintendent, Sundays and holiday excepted, that the excavation is ready for backfill and/or surface replacement. (Code 1975, 17-206)

13-207. DRIVEWAY ENTRANCE. It shall be the duty of the city engineer to prepare suitable plans and specifications for the cutting and removal of curbs when it is desired to construct any driveway entrance to any private premises or lots used in the city for parking purposes. It shall be the duty of any person having a permit for the removal of curbs to construct or reconstruct any entrance or sidewalk constituting part of such entrance in accordance with the plans and specifications therefor. No such entrance shall block or impede the free flow of water along the gutter or drainage ditch and no such entrance shall be constructed above the grade level or drainage course. (Code 1975, 17-207)

13-208. ABANDONMENT OF DRIVEWAY; DUTY OF OWNER. Whenever the owner of real property shall abandon the use of a driveway entrance for which there is an opening or cut in the curb, it shall be the duty of the owner of such real estate, at his or her own expense, to cause the opening or cut in the curb to be closed; provided, that he or she must first apply for and secure a permit for such work in the same manner as a permit is secured under section 13-202 of this article; the work shall be done in accordance with the specifications, if any, furnished by the city engineer. (Code 1975, 17-208; Code 2010)

13-209. USE OF CULVERTS. When it shall be impracticable to open, construct or maintain an entrance across any drainage ditch or drain under the foregoing section, such places may be bridged by culverts at driveway entrances. Such culverts or bridges shall comply with the plans and specifications of the city engineer. All such culverts shall be of sufficient capacity as not to interfere with the drainage, and the same shall be subject to approval by the city engineer or street superintendent. The abutting lot owners shall pay the cost of all such culverts in the manner provided by law. (Code 1975, 17-209)

13-210. OBSTRUCTING DRAINAGE. It shall be unlawful for any person to place in or fill with concrete, dirt, planks, stones, snow, ice or other materials any drainage ditch, or to bridge any gutter except as provided in the foregoing section, or in any manner change the course of any drainage ditch or obstruct any open drain in the city. (Code 1975, 17-210)

13-211. MUNICIPAL PROJECTS. Nothing in this article shall be construed as to prohibit the backfill of excavations, repair and replacement of surfaces by contractors in the performance of street sewer and waterline and other improvement projects under the direction of the city engineer. (Code 1975, 17-211)

ARTICLE 3. STREET USES REGULATED

- 13-301. WORK ADJACENT TO STREETS; ENCUMBERING STREETS. It shall be unlawful for any person making an excavation or doing any work adjacent to or under any sidewalk or street to do any such work without proper barricades or safety guards or lights or to obstruct any street, alley or sidewalk of the city by placing or disposing therein building materials, or to obstruct any such street, alley, sidewalk without first securing the approval of the city engineer. Upon completion of the work, the contractor or person in charge shall clean up the public ways within not less than 10 days after the completion of the work. (Code 1975, 17-301)
- 13-302. CELLAR ENTRANCES. It shall be unlawful for any person to open or reconstruct any entrance into a cellar-way in a sidewalk or street without the approval of the governing body. All cellar-ways or pavement entrances now existing in any sidewalk or street, or which may hereafter be so constructed, shall be protected by a good and substantial iron railing to be approved by the building inspector in accordance with the building code. Any person who shall open or leave unprotected any cellar entrance, cellar-way, coal hole or grating in any street or sidewalk in the city, or permit the same to remain or be in an unsafe condition shall, upon conviction thereof, be fined in any sum not less than \$5.00 nor more than \$100.00. (Code 1975, 17-302)
- 13-303. TRESPASSING ON PARKING; CURBS. It shall be unlawful for any person to drive, ride or cross with either vehicles, livestock or by foot, any portion of the street parking adjacent to the premises of any person owning or occupying property in the city which has been prepared and plotted as parking to the premises. It shall further be unlawful for any person to drive any vehicle over curb or a sidewalk, except at an established entrance, or to break or remove any such sidewalk or curb without a permit therefor; provided, that the governing body may authorize the use of the parking for the standing or parking of vehicles under such conditions as may be determined by the governing body. (Code 1975, 17-303)
- 13-304. STORAGE ON SIDEWALKS, STREETS, ALLEYS. It shall be unlawful for any person to leave or allow to be left any implements, tools, boxes, merchandise, goods, trash cans, crates, garbage containers, corn poppers, peanut or popcorn roasters, ice cream containers, advertising or showcases on any sidewalk, street, alley or traveled way in the city longer than is necessary for unloading or loading the same; provided, that the city manager may grant temporary permission for a limited time only for the sidewalks, streets, alleys or traveled way to be used by the occupants of premises adjacent thereto when the same shall not endanger or inconvenience the public. The city reserves the right at any time upon notice to the owner or occupant of such premises to order the removal of any such obstruction at the expense of the owner or occupant, the same to be collected as provided by law. (Code 1975, 17-304)
- 13-305. UNLAWFUL STREET DEPOSITS. It shall be unlawful for any person to throw, place, deposit or leave or cause to be thrown, placed, deposited or left in any of the public streets, alleys, parks or thoroughfares in the city, any dirt, filth, sewage, sweepings, excrement, compost, papers, garbage, stable manure, boxes,

ashes, lumber, coal, wood, kindling, grass, weeds, vegetables, sops or litter of any kind. (Code 1975, 17-305)

13-306. CURB PUMPS PROHIBITED. No person shall hereafter erect or install any gasoline or oil pumps or compressed air devices in or along the parking of any street or along the curblin thereof where it shall be necessary for the person served by such pumps or devices to stop their vehicles in the streets while receiving such service. (Code 1975, 17-307)

13-307. POSTING BILLS. It shall be unlawful for any person to post or put up any handbill, advertisements, posters, showbills or other signs on any building, pole or property in or along any public street or way in the city, except with the permission of the owner thereof. (Code 1975, 17-308)

13-308. GLASS, TACKS, NAILS. It shall be unlawful for any person to place, throw, or cause to be placed or thrown on any street, alley, sidewalk or other public property of the city any glass, tacks, nails, bottles or any other substance or thing that might do injury to any person or animals, or cut or puncture any pneumatic tire when passing over the same. (Code 1975, 17-309)

13-309. HEAVY VEHICLES. It shall be unlawful for any person to drive, operate or move any heavy vehicle, tractor, trailer or other heavy object equipped with metal lugs or sharp metal rims on or over any paved streets in the city unless the paving shall be protected by planks sufficient to protect against injury from such lugs or rims, or unless such vehicles or objects are otherwise protected to save such street from injury. (Code 1975, 17-310)

13-310. HAULING OVER STREETS. It shall be unlawful for any person to haul or carry over the streets, sidewalks or public ways any garbage, rubbish or refuse of any kind except in a vehicle so covered, constructed or protected as to prevent the escaping, splashing or spilling of such material or substance therein contained or hauled. (Code 1975, 17-311)

13-311. MOLESTING PAVING AND SIDEWALKS. It shall be unlawful for any person to walk upon, drive over or across any pavement, sidewalk or similar public improvement in the street, during the course of construction and before the same has been opened for public travel. (Code 1975, 17-312)

13-312. INJURY BY PETROLEUM PRODUCTS. It shall be unlawful for any person to deposit or throw any waste, crankcase oil, fuel oil, coal oil, gasoline or other petroleum liquid products or acids into or on or willfully permit the same to be spilled, dripped or otherwise come into contact with the surface of any street improved by asphalt paving. (Code 1975, 17-313)

13-313. REMOVAL OF BARRICADES AND LIGHTS. It shall be unlawful for any person to remove, throw down, run down, destroy or otherwise injure any barricade or safety wall erected as required by ordinance, or to remove, carry away or injure any warning lights placed on or about any such work, except such person who shall be in charge of any such work. (Code 1975, 17-314)

- 13-314. RAILROAD CROSSINGS. No person operating or who may hereafter operate a railroad into or through the city shall permit any train to remain across any street crossing or sidewalk of the city so as to interfere with the passage of vehicles and pedestrians for a longer period of time than 10 minutes, and in case it is necessary for such train to remain standing for a longer period of time than 10 minutes, it shall be uncoupled at such crossing and the cars separated so that vehicles and pedestrians may pass. (Code 1975, 17-315)
- 13-315. WIDTH OF STREETS, ALLEYS, EASEMENTS. For the purpose of allowing unobstructed passage of traffic and the maintenance of public utilities in the streets, alleys, parkings and easements of the city, it is hereby declared that in all areas hereinafter annexed to or subdivided in the city, all streets shall be a minimum width of 60 feet or greater as directed by the governing body, and all alleys shall have a minimum width of 20 feet and all utility easements and parkings and other public property in which utilities may hereafter be installed shall have a minimum width of 14 feet. (Code 1975, 17-316)
- 13-316. PENALTY. Any person violating any of the provisions of this article, for which another penalty is not specifically provided shall, upon conviction thereof, be punished by a fine of not more than \$100.00, or be imprisoned not to exceed 30 days, or be both so fined and imprisoned; provided, that if any person shall continue any obstruction or make any unlawful use, as in this article provided, of any sidewalk, street or public way in the city after being notified by the director of public safety to remove the obstruction or cease to make unlawful use of such place, the same shall constitute a separate offense hereunder. (Code 1975, 17-317)

ARTICLE 4. SPECIAL REGULATIONS; CERTAIN STREETS

- 13-401. ENCROACHMENTS PROHIBITED. It shall be unlawful, except as hereinafter provided, for any person to erect, construct, install, place, maintain or allow to remain or to permit the erection, construction, installation, placing maintenance or remaining of any encroachment upon or above the right-of-way, or any portion thereof, of the following designated streets:
 (a) Walnut Street from Second to Seventh Avenue;
 (b) Seventh Avenue from Ohio Street westward to the city limits.
(Code 1975, 17-401; Code 2010)
- 13-402. DEFINITIONS. The word encroachment when used in this article shall mean and include any sign, awning, canopy, marquee, billboard or other advertising device, merchandise stand or display, building or other structure, or other use for private purposes of any character which exists in or rests upon or projects above the right-of-way of any portion thereof of a public street. (Code 1975, 17-402)
- 13-403. NOTICE TO REMOVE; REMOVAL. Whenever any encroachment exists in violation of the provisions of this article, the city inspector will issue a notice requiring the removal of such encroachment within a time specified in such notice. If the owner of such encroachment, or his or her agent, is known, such notice shall be a written notice served in person or by mail upon such owner or agent. If the owner or agent is unknown, such notice shall be published once in the official city paper. If the owner or agent shall fail or refuse to remove the encroachment within the time fixed in the notice, the city shall cause the encroachment to be removed. (Code 1975, 17-403; Code 2010)
- 13-404. PENALTY. Any person violating any of the provisions of this article shall be deemed guilty of a code violation and upon conviction thereof shall, for each offense, be fined a sum not exceeding \$50.00 and each day that a violation is continued shall constitute a separate offense. (Code 1975, 17-404)
- 13-405. NOT TO AFFECT OTHER STREETS. Nothing in this article is intended to affect encroachments upon streets or portions of streets not described in section 13-401 of this article. (Code 1975, 17-405)

ARTICLE 5. SNOW AND ICE

- 13-501. **SNOW AND ICE TO BE REMOVED.** It is hereby made the duty of the owner and the occupant of any lot abutting upon any sidewalk to cause to be removed from such sidewalk all snow and ice within 12 hours from the time that the snowfall or ice storm ceases, and to keep such sidewalks at all times free from the accumulation of snow and ice. (Code 1975, 17-601; Code 1991)
- 13-502. **BUILDINGS, STRUCTURES NEAR STREETS, ALLEYS, SIDEWALKS.** 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 side 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. (Code 1975, 17-602)
- 13-503. **PENALTY.** Any person violating the provisions of section 13-501 of this article shall, upon conviction thereof, be fined not more than \$100.00 or be imprisoned not more than 30 days, or be both so fined and imprisoned. (Code 1975, 17-603)

CHAPTER XIV. TRAFFIC

- Article 1. Standard Traffic Ordinance
- Article 2. Local Traffic Regulations
- Article 3. Hazardous Materials
- Article 4. Bicycles
- Article 5. Emergency Snow Routes
- Article 6. Emergency Access Routes

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 Augusta, Kansas, the standard traffic ordinance known as the "Standard Traffic Ordinance for Kansas Cities," Edition of 2008, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas. No fewer than three copies of said Standard Traffic Ordinance shall be marked or stamped "Official Copy as Adopted by Ordinance No. 1969," and filed with the city clerk to be open to inspection and available to the public at all reasonable hours. The department of public safety, municipal judge and all administrative departments of the city charged with enforcement of the Standard Traffic Ordinance shall be supplied, at the cost of the city, such number of official copies of such Standard Traffic Ordinance similarly marked, as may be deemed expedient. (Ord. 1969; Code 2008)
- 14-102. SAME; TRAFFIC INFRACTIONS AND TRAFFIC OFFENSES. (a) An ordinance traffic infraction is a violation of any section of this article that prescribes or requires the same behavior as that prescribed or required by a statutory provision that is classified as a traffic infraction in K.S.A. 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.
(Ord. 1930, Sec. 2; Code 2010)
- 14-103. PENALTY FOR SCHEDULED FINES. The fine for violation of an ordinance traffic infraction or any other traffic offense for which the municipal judge establishes a fine in a fine schedule. (Ord. 1969, Sec. 3; Code 2010)
- 14-104. SAME; AMENDMENTS. The following sections of the Standard Traffic Ordinance are hereby changed to read as follows:
Section 33. Maximum Speed Limits. (a) Except when a special hazard exists that requires lower speed for compliance with Section 32, the limits specified in this section or established as hereinafter authorized shall be maximum lawful speeds, and no person shall drive a vehicle at a speed in excess of such maximum limits:

- (1) 20 miles per hour in any business district;
- (2) 30 miles per hour in any residence district;
- (3) 20 miles per hour in any park;
- (4) as otherwise posted in all other locations; and
- (5) 20 miles per hour in any duly marked school zone, provided that such limit will only apply at such times as the lighted signals are flashing except that the school zone shall not apply on such days as school is not in session.

The maximum speed limit established by or pursuant to this paragraph shall be of force and effect unless otherwise posted. (Ord. 1845, Sec. 1; Ord. 1844, Sec. 1; Code 2010)

14-105.

TRESPASS TO PARK. Trespass to park is defined as:

(a) Driving a vehicle upon the real property of another for the purpose of parking a vehicle without the express authority or permission of the owner or occupied to do so; or

(b) Driving a vehicle upon the real property of commercial establishment during business hours to park a vehicle:

(1) Without conducting any business at the commercial establishment;

or

(2) Not removing the vehicle from the property of the establishment within a reasonable time after completing a business transaction at the establishment.

(Code 2010)

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 delegate to the city manager the power to 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. (Code 1991, 13-201)
- 14-202. MAJOR TRAFFICWAY. It is deemed necessary and expedient that State Street from its intersection with the south line of Third Avenue to its intersection with the east line of Walnut Street be designated as a main trafficway as defined in K.S.A. 12-685. The trafficway serves a primary function in the movement of traffic between areas of concentrated activity within the city and as a connecting link with traffic facilities outside the city. (Code 1975, 18-204; Code 1991, 13-203)
- 14-203. ONE-WAY STREETS. When signs are erected giving notice thereof, all persons operating any vehicles, at any time, shall:
(a) Travel northward only on Cliff Drive from a point that is 107.5 feet north of the south line of Reserve No. 1 in Herman and McKittrick's Addition to the city.
(b) Travel eastward only on that portion of Columbia Street bounded on the west by the east line of State Street and on the east by the west line of Osage Street.
(c) Alleyway between 5th and 6th, running parallel to State and School. (Ord. 1416, Sec. 1; Code 1991, 13-204; Code 2010)
- 14-204. SCHOOL ZONES; SPECIAL SPEED RESTRICTIONS. On such dates that schools of any school system within the City or adjacent thereof shall be in session the speed of 20 miles per hour shall be declared to be the effective speed when appropriate signs giving notice thereof shall be erected upon the following described streets or parts thereof, to wit:
(a) On State Street from its intersection with Main Street northward to Harrington Avenue;
(b) On High Street from its intersection with State Street eastward to Ada Street;
(c) On Columbia Street from its intersection with State Street eastward to a point 200 feet east of Osage Street;
(d) On Clark Street from a point 125 feet west of Cliff Drive eastward to a point 300 feet east of State Street;
(e) On Osage Street from a point 300 feet north of High Street to Broadway Avenue;
(f) On Fanny Street from its intersection with Cron Street to its intersection with Ohio Street;
(g) On Cron Street from its intersection with Fanny Street to its intersection with Sunflower Avenue;

- (h) On Robbins Street from its intersection with Shirley Avenue to its intersection with Fanny Street;
- (i) On Dearborn Street from its intersection with Shirley Avenue to its intersection with Sunflower Avenue;
- (j) On Sunflower Avenue from its intersection with Cron Street to its intersection with Ohio Street;
- (k) On Kelly Avenue from its intersection with Bobbie Street westward to a line 300 feet westward from its intersection with Helen Street.
- (l) From the north curb line of Kelly Avenue southward on Helen Street 300 feet southward from its intersection with Summit Avenue;
- (m) On Summit Avenue from its intersection with Bobbie Street westward to its intersection with Leckliter Street;
- (n) On Belmont Avenue from a point 135 feet east of Crest Street to a point 60 feet west of Custer Lane;
- (o) On Mainsgate Road from its intersection with Belmont Avenue to its intersection with Linden Court.
- (p) On Augusta Avenue from its intersection with Ohio Street to its intersection with Greyhound Drive.
- (q) On Greyhound Drive from its intersection with Augusta Avenue to its intersection with Belmont Avenue.

The aforesaid speed shall be the effective limit during the hours posted by signs giving notice thereof.

(Ord. 1854, Sec. 1; Code 2010)

14-205. SPEEDING IN EXCESS OF 20 MILES PER HOUR PROHIBITED DURING CERTAIN HOURS. It shall be unlawful for any person or persons to drive or operate a motor vehicle upon the streets of the city in areas designated as "School Zone" under Section 14-205 of this article in excess of 20 miles per hour during the hours when traffic warning light signals are visible indicating that such speed limit is in effect. (Ord. 1844, Sec. 3; Code 2010)

14-206. SCHOOL ZONE; SPEED LIMIT; FINES DOUBLED. (a) It shall be unlawful for any person to drive or operate a motor vehicle upon the streets of the city in areas designated as "School Zone" under section 14-205 in excess of 20 miles per hour during the hours when traffic warning light signals are visible indicating that such speed limit is in effect.

(b) For any person convicted of a traffic infraction committed within a school zone during hours in which the school zone is in effect, the fine schedule for such infraction shall be double what is assessed outside a school zone.

(c) Signs shall be posted at all school zones indicating that fines are doubled when committed within a school zone. The absence of such signs at a school zone shall not be a defense to doubling fines for traffic citations under this article. (Code 2010)

14-207. ANGLE PARKING. Angle parking is hereby permitted wherever indicated by markings on the curb, sidewalk or pavement or by signs as authorized by the governing body of the city. (Code 1975, 18-208; Code 1991, 13-207)

- 14-208. TRUCK ROUTES. The governing body shall be authorized to designate and establish truck routes through the city for the use of trucks or other commercial vehicles. All such routes shall be marked by suitable signs to advise the traveling public of existence of such truck route or routes. (Ord. 1378, Sec. 2; Code 1991, 13-210)
- 14-209. SAME; DEFINITION. For the purpose of sections 14-210:213, trucks or other commercial vehicles means any truck, pickup truck trailer, tractor or any vehicle whether self-propelled by an engine or motor or whether the same is towed behind or pushed ahead of a motor vehicle when such vehicle or combination of vehicles has a gross weight of 26,000 pounds or more, including, but not limited to, any construction equipment such as motor patrols or graders, bulldozers or caterpillar-type tractors. For the purpose of sections 14-210: 213 gross weight shall mean the total weight of any truck or trailer or any other combination of vehicles being towed or pushed by a similar propelling vehicle. (Ord. 1848, Sec. 1; Code 2010)
- 14-210. SAME; TRUCKS AND OTHER COMMERCIAL VEHICLES REQUIRED TO FOLLOW TRUCK ROUTES. From and after the designation of truck routes as provided by sections 14-210 and 14-213, every truck or other commercial vehicle, as defined in section 14-211 shall use and follow such prescribed route or routes while in the city and shall not use any residential street or other street except those designated and marked as truck routes. Provided, that when it may be necessary for any such vehicle to deliver or unload cargo or to load or receive cargo at any destination within the city and the same is not prohibited by ordinance, such vehicle may leave the truck route at the street intersection nearest to the place of the truck route by the most direct street to the truck route. Provided further, that public safety officers of the city may direct the routing of all such vehicles. (Ord. 1378, Sec. 4; Code 1991, 13-212)
- 14-211. SAME; TRUCK ROUTES DESIGNATED. For the purpose of sections 14-210:213, the following streets and avenues of the city are hereby designated as truck routes:
- (a) All of Seventh Street within the city limits.
 - (b) All of Walnut Street within the city limits.
- (Ord. 1848, Sec. 2; Code 2010)
- 14-212. PARKING CERTAIN TRUCKS IN PROHIBITED AREAS. (a) No vehicle, as defined within K.S.A. 8-126, as amended, including but not limited to transport, truck tractor, semitrailer, commercial trailer not mechanized, recreational vehicle or truck of a rated capacity of more than 1 1/2 tons or being in an aggregate length of 20 feet, including one or more connected vehicles, shall be, at any time, parked or left unattended on any street, avenue or public way within those portions of the city that are zoned A-1, R-1, R-1A, R-2, R-2A, R-3, R-3A, R-4, R-5, PR-1, PUD, PR-1, PR-2, PR-3, C-M-CC and I; provided, that nothing herein shall deny the right to park any such vehicles for emergency refueling or making an emergency repair or for the purpose of making delivery or pick up within prohibited areas; provided further, that all such vehicles may be parked in other areas of the city so long as such parking shall not be contrary to other ordinances of the city relating to the parking of such vehicles.

(b) It shall be unlawful for any person or persons to park vehicles as set forth in this section and any such person so violating any of the provisions shall upon conviction thereof, be punished by a fine of not more than \$50.00. (Ord. 1640, Sec. 1; Code 2010)

14-213. SAME; PRESUMPTION, OWNER ILLEGALLY PARKED MOTOR VEHICLE. In a prosecution for parking a vehicle as set forth in section 14-214 of this article, proof of identify of the registered owner of the vehicle, as shown by the registration license plate upon the vehicle in violation, shall constitute in evidence a prima facie presumption that the owner of such vehicle was the person who parked or placed such vehicle at the place where the violation occurred. (Code 1975, 18-213)

14-214. PARKING, STANDING OF TAXICABS, BUSES. The driver of a bus or taxicab shall not stand or park the same upon any street in any business district at any place other than at a bus stop or taxicab stand respectively, except that this provision shall not prevent the driver of any taxicab from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of and while actually engaged in loading or unloading passengers. (Code 1975, 18-214; Code 1991, 13-216)

14-215. UNAUTHORIZED MOTOR VEHICLES. (a) Prohibited Acts. It shall be unlawful for any person to operate any unauthorized motor vehicle, motor cycle or motor driven cycle, except those of the city or any other governmental unit authorized by the city manager, to go upon any levee dike, dam, embankment, in any ditches or upon any public lands owned by the city, or under its control and supervision; provided, that nothing herein shall be construed to prohibit the operation of any such vehicle as above set forth in any street, roadway, driveway or parking areas so used and dedicated.

(b) Exceptions. By designation, the governing body of the city may authorize certain areas in which the vehicles or any of them, above set forth in this section, may be operated upon certain prohibited areas of the city as set forth in subsection (a) of this section when the same shall be posted.

(c) Penalty. Any person violating the provisions of this section shall be deemed guilty of a code violation and upon conviction thereof shall be fined in a sum not more than \$50.00.

(Code 1975, 18-220; Code 1991, 13-218)

14-216. PARADES AND PROCESSIONS. No parade or procession of persons or vehicles, excepting the military forces of the United States, the State of Kansas forces of police or fire departments, or funeral processions, shall occupy, march or proceed along any street or highway until the city manager shall have been notified by the person in charge thereof and until the city manager shall have made provisions for such purpose together with an escort if he or she deems such escort necessary; provided that no such parade or procession shall be authorized during such time as the public peace shall be disturbed or acts of violence are likely or threatened thereby. (Code 1975, 18-301; Code 1991, 13-219)

14-217. SAME; REGULATIONS. All parades shall be governed by the following regulations:

(a) All parades shall be formed and shall be confined within an area bounded by Kelly Avenue on the north, by Osage Street, projected northward to Kelley, on the east, and shall be bounded on the north and west by the city limits; provided, that in special cases the city manager may designate and authorize parade routes, formations, and the time of the event. Permit to be issued by the city manager.

(b) All participants and drivers of vehicles shall conform to the direction of the officers of the department of safety in connection with the formation and movement of such parade or procession.

(Code 1975, 18-302; Code 1991, 13-220; Code 2010)

14-218. CARELESS DRIVING. Any person who shall operate or halt any vehicle on the streets, lanes, alleys or other public highways in the city in a careless or inattentive, or imprudent manner, or in such a manner as to indicate a careless or heedless disregard for the rights or the safety of others, or in such a manner as to endanger or be likely to endanger, any person or property, shall be guilty of careless driving. (Code 1991, 13-221)

14-219. OUTDOOR PARKING/STORAGE OF RECREATIONAL VEHICLES. The outdoor parking and/or storage of major recreational equipment such as boats, camping or house trailers, motor homes, horse trailers or utility trailers shall be regulated as follows:

(a) Major recreational equipment shall not be utilized for living purposes, except for the convenience of temporary lodging and when stored as personal property of the occupant. Temporary lodging shall be limited to 30 days in a calendar year.

(b) Parking and/or storage in the public right-of-way, whether in whole or in part, is prohibited.

(c) Parking and/or storage that obstructs the view for ingress and egress of alleys, driveways, and street corner sight triangles is prohibited.

(d) Parking and/or storage shall not impair utility and drainage easements.

(e) Parking and/or storage between the front property line and the front building line (extending to the lot's side property lines) is allowed only on a paved hard surface such as concrete, asphalt or at least 4 inches of packed rock or gravel. The drive area between the street and property line shall be poured concrete or asphalt. Paving on City property requires a permit. The minimum number of off street parking spaces required in the zoning district must still be maintained.

(f) Parking and/or storage in the side yard or back yard is allowed.
(Ord. 1977; Code 2010)

ARTICLE 3. HAZARDOUS MATERIALS

- 14-301. HAZARDOUS MATERIAL DEFINED. As used in this article, the term hazardous material shall mean any substances or materials in such quantity and form which may pose an unreasonable risk to health and safety or property, which may include, but are not limited to, explosives, radioactive materials, etiologic agents, flammable liquids and solids, combustible liquids or solids, poisons, oxidizing or corrosive materials and compressed gases, or any material that due to its nature may cause death or disability injury upon contact therewith. (Code 1991, 13-301)
- 14-302. 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. The provisions of this article shall not apply to the delivery of small containers intended for use by consumers or the delivery of hazardous materials to fixed sites as part of normal operations of that site. (E.g. portable propane cylinders for cooking, fuel delivers for fixed site, etc.) (Code 1991, 13-302)
- 14-303. TRANSPORTATION OF HAZARDOUS MATERIALS. Except as provided in section 14-304 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 1991, 13-303)
- 14-304. HAZARDOUS MATERIALS ROUTES. The provisions of section 14-303 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) US Highway 400 (Seventh Street)
 - (b) US Highway 77 (Walnut Street)
 - (c) Osage Street between Seventh and Main (only for the purpose of making deliveries)
 - (d) Main Street between Osage and Ohio (only for the purpose of making deliveries)
 - (e) Ohio Street between Main and the North city limit (only for the purpose of making deliveries)
- (Code 1991, 13-304)
- 14-305. PARKING OF VEHICLES OR TRAILERS CARRYING HAZARDOUS MATERIALS. (a) 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:
- (b) This section 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 14-304.
- (Code 1991, 13-305)

14-306. 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 Director of Public Safety, or his or her designee, or any law enforcement officer may require the owner, operator or lessee of the vehicle to move it within one hour. 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 vehicle at its parked location constitutes, adds to or prevents correction of a situation threatening imminent injury or damage to persons or property. (Code 1991, 13-306)

ARTICLE 4. BICYCLES

- 14-401. **DEFINITIONS.** A bicycle is defined as every device propelled by human power upon which any person may ride, having two tandem wheels, either of which is more than 14 inches in diameter. (Code 1975, 18-401; Code 1991, 13-401)
- 14-402. **APPLICATION AND ISSUANCE.** Every person owning a bicycle propelled wholly or in part by muscular power, shall procure, and the safety department is hereby authorized and directed to issue, upon written application therefor, a bicycle license. Whenever any person shall acquire by purchase, gift or otherwise such a bicycle, such person shall, within five days after the acquisition of the same, upon written application therefor, apply for a license which shall be issued by the public safety department. The license shall entitle the licensee to operate the bicycles for which the licenses have been issued, upon all the streets, alleys and public ways, exclusive of sidewalks, in the city. (Code 1975, 18-403; Code 1991, 13-403)
- 14-403. **LICENSE PLATES, REGISTRATION CARDS.** The city shall provide a license plate or other physical indications of registration, together with registration cards having numbers stamped thereon in numerical order; such license plates or other physical evidence of registration shall be suitable for attachment upon the frames of the bicycles which shall be displayed on the bicycles at all times. The Department of Public Safety shall also keep a record of the issue of each license to whom issued, and the number thereof. It shall be unlawful to operate or use a bicycle without obtaining a license or registration. (Code 1975, 18-404, Code 1991, 13-404; Code 2010)
- 14-404. **BICYCLE DEALERS; DAILY RECORDS.** All persons engaged in the business of buying second-hand bicycles are hereby required to keep daily records, giving the name and address of the person from whom each bicycle is purchased, the description of each bicycle purchased, the frame number thereof, and the number of the license plate found thereon, if any. All persons engaged in the business of selling new or second hand bicycles are hereby required to keep daily records, giving a list of all sales made by such dealers, which list shall include the name and address of each person to whom sold, the kind of bicycle sold, together with the description and frame number thereof, and the number of the license plate attached thereto, if any. All such records, shall be open to inspection by the Director of Public Safety at all reasonable times, and such daily records shall be preserved for not less than two years. (Code 1975, 18-405; Code 1991, 13-405)
- 14-405. **SALES, TRANSFERS OF OWNERSHIP; DUTIES OF PARTIES.** It shall be the duty of every person who sells or transfers ownership of any bicycle, to report such sale or transfer by returning to the department of public safety the registration card issued to such person as licensee thereof, together with the name and address of the person to whom the bicycle was sold or transferred, and such report shall be made within five days of the date of the sale or transfer. It shall be the duty of the purchaser or transferee of such bicycle to apply for a transfer of

registration therefor within five days of the sale or transfer. (Code 1975, 18-406; Code 1991, 13-406)

14-406. UNLAWFUL ACTS. It shall be unlawful for any person to willfully or maliciously remove, destroy, mutilate or alter the number of any bicycle frame licensed pursuant to this article. It shall also be unlawful for any person to remove, destroy, mutilate or alter any license plate, seal or registration card during the time in which such license plate, seal or registration card is operative; provided, that nothing in this article shall prohibit the department of public safety from stamping numbers on the frames of bicycles on which no serial number can be found, or on which the number is illegible or insufficient for identification purposes. (Code 1975, 18-407; Code 1991, 13-407)

14-407. OPERATION OF BICYCLE ON CERTAIN STREETS. It shall be unlawful for any person or person to operate any bicycle within the city limits, upon a sidewalk or a sidewalk area located on State Street from Third Street northward to seventh Street and for one block on Fourth Street, Fifth Street and Sixth Street on either side of State Street except upon a permanent or duly authorized temporary driveway. Any person violating the provisions of this section shall be deemed guilty of a code violation and upon conviction thereof shall be fined in a sum not to exceed the sum of \$25.00. This provision shall not apply to law enforcement. (Code 1975, 18-408; Code 1991, 13-408; Code 2010)

14-408. LICENSE FEE. The license fee to be paid for each bicycle shall be established by Resolution of the Governing Body of the City of Augusta, Kansas and shall be paid in advance. Pursuant to section 14-506 of this article, such license may be transferred, and the fee shall be paid for the registration of such transfer. All license fees collected under this article shall be paid into the general operating fund of the city. (Code 1975, 18-409; Code 1991, 13-409)

14-409. PENALTY. Every person violating any of the provisions of this article for which a penalty is not otherwise provided, shall upon conviction thereof be fined in an amount not more than \$100.00. In addition to the penalty herein above provided, the safety department or any safety officer may impound and retain possession of any bicycle operated in violation of the provisions of this article, and retain possession of the same until the license provided for herein is obtained by the owner of such bicycle. (Code 1975, 18-410; Code 1991, 13-410)

ARTICLE 5. EMERGENCY SNOW ROUTES

- 14-501. FINDINGS OF THE GOVERNING BODY. The governing body finds that parking and operation of vehicles on certain streets covered by a heavy accumulation of snow is a matter affecting the health, safety and welfare of the /citizens of the city, for the reason that parked and stalled vehicles impede snow removal operations and cause serious traffic congestion. (Ord. 1466, Sec. 1; Code 1991, 13-501)
- 14-502. DECLARATION OF TRAFFIC EMERGENCY. Whenever snow has accumulated or there is a possibility that snow will accumulate to such a depth that snow removal operations will be required, the city manager, or in his or her absence the director of safety, may declare a traffic emergency and until such traffic emergency is terminated it shall be unlawful:
- (a) To park a vehicle on any street designated an emergency snow route in section 14-505.
 - (b) To operate a motor vehicle on any emergency snow route in such manner or condition that such motor vehicle stalls and is unable to proceed by reason of the fact that the driving wheels are not equipped with tire chains or snow tires.
- (Ord. 1466, Sec. 2; Code 1991, 13-502)
- 14-503. NOTICE OF PARKING EMERGENCY; TERMINATION. Upon declaring a traffic emergency the city manager shall forthwith cause appropriate notice thereof to be given through the local press, cable TV and other media. The parking emergency shall be terminated by notice given substantially in the same manner as the parking emergency was declared. (Ord. 1466, Sec. 3; Code 1991, 13-503)
- 14-504. REMOVAL OF PARKED VEHICLES. All vehicles parked on emergency snow routes must be removed within two hours after notice of a traffic emergency has been given. Any vehicle parked on an emergency snow route after such period of time may be removed or caused to be removed by a public safety officer, to the nearest garage or other place of safety and the vehicle may not be recovered until the towing charges have been paid. (Ord. 1466, Sec. 4; Code 1991, 13-504)
- 14-505. EMERGENCY SNOW ROUTES; ESTABLISHMENT; SIGNS. The following streets are hereby established as emergency snow routes within the city;
- a) Walnut Street from south city limits to Seventh Street;
 - b) Seventh Street from the west city limits to the east city limits;
 - c) Osage Street from Seventh Street north to Main Street;
 - d) Main Street from Osage Street east to Ohio Street;
 - e) Ohio Street from Main Street north to the north city limits;
 - f) Lulu-Money Street from Seventh Street north to Kelly Avenue;
 - g) Kelly Avenue from Money Street east to Custer Lane;
 - h) State Street from Second Street north to Fanny Avenue;
 - i) Custer Lane from 100th Street north to Belmont Avenue;
 - j) 12th Street from Ohio Street east to Custer Lane;
 - k) High Street from State Street east to Ohio;

- l) Park Lane Drive from Kelly Avenue north to Highland Drive;
 - m) Fanny Street from State Street east to Ohio Street;
 - n) Dearborn Street from Fanny Avenue north to Belmont Avenue;
 - o) Belmont Avenue from Dearborn Street east to Custer Lane
 - p) Augusta Avenue – Greyhound Drive east from Ohio Street and north to Belmont Avenue;
 - q) Stadium Drive from Ohio Street east to Fairway Drive;
 - r) Fairway Drive from Stadium Drive south to Kelly Avenue;
 - s) Lakepoint Drive from Ohio Street east to where the street enters into private property;
 - t) David Avenue from Ohio Street east to Stone Lake Drive.
- (Ord. 1466, Sec. 5; Code 2010, 13-505)

14-506. SNOW DISPOSAL. Snow removed from driveways and sidewalks of private property will be placed on unpaved right-of-way or individual's property. (Ord. 1466, Sec. 6; Code 1991, 13-506)

ARTICLE 6. EMERGENCY ACCESS ROUTES

- 14-601. **DECLARATION OF EMERGENCY ACCESS ROUTE.** Whenever life, limb and/or property of a private citizen is threatened, it shall be permissible to operate a motor vehicle on an emergency route. It shall be unlawful:
- (a) To operate a vehicle on any street, road or lane designated an emergency route in 14-603 of this Article, except whenever life, limb and/or property of a private citizen is threatened.
 - (b) To park a vehicle on any street, road or lane designated an emergency route in 14-603
 - (c) To operate a vehicle during time of an emergency as declared by the Mayor, City Manager, Director of Public Safety, or designated representatives of these offices, on designated emergency route.
(Ord. 1648, Sec. 2; Code 2010)
- 14-602. **REMOVAL OF PARKED VEHICLES.** Removal of Parked Vehicles. All vehicles, not operated by City employees or designated representatives of the City, parked on emergency routes shall be removed by the Department of Public Safety, to an impound facility and vehicle may not be recovered until impound fees have been paid. (Ord. 1648, Sec. 3; Code 2010)
- 14-603. **EMERGENCY ROUTES; ESTABLISHMENT; SIGNS.** The following streets are hereby established as emergency routes within the City;
- (a) Grove Street from the Water Plant North.
(Ord. 1648, Sec. 4; Code 2010)
- 14-604. **SAME; PENALTY.** Any operator of a vehicle who shall violate the provisions of this ordinance shall, upon conviction thereof, be fined in an amount not to exceed fifty (\$50.00) dollars. (Ord. 1648, Sec. 5; Code 2010)

CHAPTER XV. UTILITIES

- Article 1. General Provisions
- Article 2. Water
- Article 3. Electricity
- Article 4. Sewers
- Article 5. Solid Waste
- Article 6. Water Conservation

ARTICLE 1. GENERAL PROVISIONS

- 15-101. DEFINITION. For the purposes of this article “utility services” shall include water, electrical, sewer, solid waste (refuse) and other services provided by the city. (Ord. 1951, Sec. 1; Code 2010)
- 15-102. DELINQUENT ACCOUNTS. Unless otherwise provided, water, electric, sewer, solid waste (refuse) or other utility service shall be terminated for nonpayment of service fees or charges in accordance with section 15-103. (Ord. 1951, Sec. 1; Code 2010)
- 15-103. NOTICE; HEARING. (a) If a utility bill has not been paid on or before the due date as provided in this chapter, a delinquency and termination notice shall be issued by the city within five days after the delinquency occurs and mailed to the customer at his or her last known address. A copy also shall be mailed to the occupant of the premises if the occupant and the customer are not the same person.
- (b) The notice shall state:
- (1) The amount due, plus delinquency charge;
 - (2) Notice that service will be terminated if the amount due is not paid within ten days from the date of the notice unless the date on the notice to pay the charges due shall be on a Saturday, Sunday or legal holiday, in which event such notice will give the consumer until 8:00 a.m. of the next business day in which to pay the charges;
 - (3) Notice that the customer has the right to a hearing before the designated hearing officer.
- (Ord. 1951, Sec. 1; Code 2010)
- 15-104. ADJUSTMENT OF BILLS. Administrative and Hook-up Errors. An adjustment, refund or back-billing shall be made for any overcharge or undercharge resulting from incorrect reading of the meter, incorrect application of the rate schedule, incorrect meter connection, or other similar reason.
- (a) Overcharges. The amount of the overcharge will be refunded or credited to the customer. The time period for which the utility will adjust, refund, or credit the customer’s bill shall not exceed two years.
- (b) Under charges. The bills will be recalculated back to a period not to exceed one year for commercial customers and a period not to exceed six months

for residential customers. Back-billing will be completed within six months of the discovery of the error. If the back-billing creates customer hardship, a reasonable agreement to pay shall be offered.

(c) Illegal connections. This section does not apply to under charges caused by an illegal action or illegal hookup.

(Ord. 1951, Sec. 1; Code 2010)

15-105. BILLING CONSOLIDATED. It is hereby deemed necessary by the governing body to consolidate its billing to utility customers in and upon one statement. The statement shall show clearly on the face thereof, the amount of the separate charge for each such utility service. (Code 1975, 20-119; Code 1991, 14-221)

15-106. BILLING AREA NO. 1. The city clerk shall bill all customers located in Area No. 1, on the 15th day of each month. Such bills shall be due and payable on or before the 27th day of the month following such billing. (Code 1975, 20-122; Code 1991, 14-224)

15-107. BILLING; AREA NO. 2. The city clerk shall bill all customers located in Area No. 2, on the 31st day of each month. Such bills shall be due and payable on or before the 12th day of the month, following such billing. (Code 1975, 20-123; Code 1991, 14-225)

15-108. DELINQUENT BILLS; RECONNECTING FEE; AREA NO. 1. Should any customer of water or electric service or both located in Area No. 1 fail, refuse or neglect to pay any bill on or before the 27th day of the month following such billing, a penalty of five percent of such bill shall be added. The city clerk shall notify in writing any customer who has failed, refused or neglected to pay any bill on or before the 27th day of the month following such billing, of the intention of the city to discontinue service unless the bill be paid within 10 days after the mailing of the notice. Should such customer fail to pay the bill or request a hearing within 10 days following such notice, the city shall disconnect such service or services. Before any such service or services may be restored, the customer shall pay all past due bills plus fees to cover the cost to the city in disconnecting and reconnecting such service or services. The fees for disconnecting and reconnecting services will be established by Resolution of the Governing Body of the City of Augusta, Kansas. (Code 1975, 20-124; Ord. 1489, Sec. 2; Code 1991, 14-226)

15-109. DELINQUENT BILLS; RECONNECTING FEE; AREA NO. 2. Should any customer of water or electric service or both located in Area No. 2 fail, refuse or neglect to pay any bill on or before the 12th day of the month following such billing, a penalty of five percent of such bill shall be added. The city clerk shall notify in writing any customer who has failed, refused or neglected to pay any bill on or before the 12th day of the month following such billing of the intention of the city to discontinue service unless the bill be paid within 10 days after the mailing of the notice. Should such customer fail to pay the bill or request a hearing within the 10 days after the mailing of the notice, the city shall disconnect such service or services. Before any such service or services may be restored, the customer shall pay all past due bills plus fees to cover the cost of the city in disconnecting and

reconnecting such service or services. The fees for disconnecting and reconnecting services will be established by Resolution of the Governing Body of the City of Augusta, Kansas. (Code 1975, 20-125; Ord. 1489, Sec. 2; Code 1991, 14-227)

15-110. DELINQUENT ACCOUNTS; NOTICE; HEARING; FINDING; LIABILITY. Water service shall be terminated for nonpayment of service fees or charges as provided in this Article. (Code 1991, 14-228; Code 2010)

15-111. LANDLORD LIABILITY. (a) Owners of premises served by utility service under this article shall be liable for payment of the cost of any utility service account delinquency arising from service provided to such premises, regardless of whether the utility service was furnished upon the application and request of the owner or the lessee of the premises. This provision shall also apply when the premises are leased by or through an agent or other representative of the owner.

(b) In the event a delinquency arises involving leased premises, the owner or owner's agent shall be notified in writing of the delinquency of the lessee by first class regular mail within 10 days after the billing to the lessee becomes delinquent. Notice shall be sufficient if mailed to the last known address of the owner or owner's agent known to city personnel responsible for said mailing, after reasonable inquiry. If the delinquent billing, interest and penalty are not paid within 15 days of the mailing, the affected utility service may be discontinued and no further such service shall be furnished by the city to the premises until all billings for the utility service to said premises, interest, late payment charges and a reconnection charge, if applicable, is paid in full.

(c) If utility service is furnished to leased premises on the application and request of the lessor of the premises, then all billings for utilities furnished to such leased premises shall be made directly to the lessor, and the lessor shall be fully liable for the cost of service furnished. (Code 2010)

ARTICLE 2. WATER

- 15-201. REGULATIONS. The furnishing of water to customers by the city through its waterworks system shall be governed by the regulations set out in this article. (Code 1991, 14-201)
- 15-202. SERVICE NOT GUARANTEED. The city does not guarantee the delivery of water through any of its mains and connecting services at any time except only when its mains, pumping machinery, power service connection are in good working order, and the supply of water is sufficient for the usual demand of its consumers. (Code 1975, 20-112; Code 1991, 14-202)
- 15-203. SERVICE CONNECTIONS REQUIRED. (a) The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purpose, situated within the city abutting on any street, alley, or right-of-way in which there is now located or may in the future be located public water mains, is hereby required at his or her own expense to make connection to such public water main.
 (b) Before any connection is made to the city's water system an application must be made in writing to the city clerk by the owner of the premises, or his or her authorized representative, for a permit to make such connection. (Code 1991, 14-203)
- 15-204. APPLICATION FOR SERVICE. (a) Any person, firm or corporation desiring a connection with the municipal water system shall apply in writing to the city clerk, on a form furnished by the city for that purpose, for a permit to make the connection.
 (b) The application shall:
 (1) Contain an exact description including street address of the property to be served;
 (2) State the size of tap required;
 (3) State the size and kind of service pipe to be used;
 (4) State the full name of the owner of the premises to be served;
 (5) State the purpose for which the water is to be used;
 (6) State any other pertinent information required by the city;
 (7) Be signed by the owner or occupant of the premises to be served, or his or her authorized agent.
 (c) Each application for a connection permit shall be accompanied by payment of fees and/or costs specified in section 15-206. (Code 1991, 14-204)
- 15-205. CITY TO MAKE CONNECTIONS. All taps shall be given, street excavations made, corporation cocks inserted, pipes installed from main to curb, and the curb cock installed in a meter box to which the service pipe is to be connected by city employees only. (Code 1991, 14-205)
- 15-206. WATER CONNECT FEES; COSTS. Regulations relating to water connection fees and costs shall be as follows:

(a) All charges for water service installation in the amounts as hereinafter fixed shall be paid to the city clerk when application is made for a new service installation for the supply of water from the city mains. The city shall make such installation when the applicant shall have extended his or her service line to the proper location for a meter as determined by the water department. A water connection fee shall be charged to each customer as established from time to time by Resolution of the Governing Body of the City of Augusta, Kansas.

(b) Whenever services shall be permitted by the city to a water user outside of the city limits, then the water connection fee shall be fixed by the governing body of the city upon the granting of an application therefor. (Ord. 1303, Sec. 2; Code 1991, 14-206)

15-207. CURB COCKS. There shall be a curb cock in every service line attached to the city main, the same to be placed within the meter box. Curb cocks shall be supplied with strong and suitable "T" handles. (Code 1975, 20-106; Code 1991, 14-207)

15-208. CHECK VALVES. Check valves are required on all connections to steam boilers or on any other connection deemed necessary by the water superintendent. Safety and relief valves shall be placed on all boilers or other steam apparatus connected with the water system where the steam pressure may be raised in excess of 40 pounds per square inch. (Code 1975, 20-111; Code 1991, 14-208)

15-209. UNAUTHORIZED SERVICE. It shall be unlawful for any person, firm, or corporation, other than duly authorized city officials or employees to turn water on or off at the water meter or curb cock shut off, with a key or in any other manner, without first obtaining written permission from the city manager or his or her designee. (Code 1975, 20-118; Code 1991, 14-209; Code 2010)

15-210. METERS. (a) All water furnished to customers shall be metered.
(b) Meters shall be located between the sidewalk or property line and curbing when the main is in the street, and on private property within three feet of the alley line when the main is in the alley.
(c) The city's responsibility stops at the property line.
(Code 1975, 20-104; Code 1991, 14-210; Code 2010)

15-211. SAME; TESTING. Meters shall be tested before being set and at any other time thereafter when they appear to be measuring incorrectly. If a test is requested by the customer and the meter is found to be accurate within two percent, the meter will be deemed correct and a charge established from time to time by Resolution of the Governing Body of the City of Augusta, Kansas will be made to the customer. (Code 1991, 14-211)

15-212. TAMPERING WITH METER. It shall be unlawful for any person to break the seal of any meter, to alter the register or mechanism of any meter, or to make any outlet or connection in any manner so that water supplied by the city may be used or wasted without being metered. It shall be unlawful for any person except an

authorized employee of the city to turn any curb cock on or off, except an authorized employee of the city to turn any curb cock on or off. (Code 1975, 20-115; Code 1991, 14-212; Code 2010)

15-213. LEAKS. No allowances shall be made for water used or lost through leaks, carelessness, neglect or otherwise after the same has passed through the meter. However, every customer shall have the right to appeal to the city from water bill or meter reading which he or she may consider excessive. (Code 1991, 14-213; Code 2010)

15-214. DISCONNECTION, RECONNECTION CHARGE. The governing body shall establish, by resolution, a water service disconnection and reconnection charge. Any service disconnected for nonpayment of delinquent bill shall be reconnected only upon payment of the delinquent bill, interest penalty thereon, and the disconnection and reconnection charge. (Code 1991, 14-214)

15-215. WATER SERVICE MAINTENANCE. Property owners shall at their own expense repair, replace or remove all such waterlines on their own premises as may be required by the department to prevent loss to the city or damage to the public. When the owner shall fail promptly to repair waterlines on his or her own premises after notice by the city, the department may disconnect the service until repaired or until the condition causing loss or damage shall be corrected. (Code 1975, 20-107; Code 1991, 14-215)

15-216. INTERRUPT SERVICE. The city reserves the right to interrupt water service for the purpose of making repairs or extensions to water lines or equipment. (Code 1975, 20-103; Code 1991, 14-216)

15-217. PROHIBITED ACTS. It shall be a violation of this article for any unauthorized person to:

- (a) Perform any work upon the pipes or appurtenances of the city's waterworks system beyond a private property line unless such person is employed by the city;
- (b) Make any connections with any extension of the supply pipes of any consumer without written permission to do so having been first obtained from the city manager or his or her designee;
- (c) Remove, handle or otherwise molest or disturb any meter, meter lid, cutoff, or any other appurtenances to the water system of the city;

(Code 1991, 14-217; Code 2010)

15-218. WASTING WATER. Water users shall prevent unnecessary waste of water and shall keep sprinklers, hydrants, faucets and all apparatus, including the service line leading from the property to the meter in good condition at their expense. (Code 1991, 14-218)

15-219. RIGHT OF ACCESS. Authorized employees of the city may enter upon any premises at reasonable hours for the purpose of reading the meter or servicing or inspecting meters or water lines. (Code 1975, 20-114; Code 1991, 14-219)

15-220. RATES. The rates charged for water received from the municipal water system of the city shall be as follows:

(a) Rates; Within City. The rates for water used within the city shall be as follows:

Base charge, per month - \$11.65

1 to 10,000 gallons - \$3.00 per thousand (1,000) gallons

10,001 to 20,000 gallons - \$3.25 per thousand (1,000) gallons

20,001 to 50,000 gallons - \$3.50 per thousand (1,000) gallons

Over 50,000 gallons - \$3.75 per thousand (1,000) gallons

(b) Rates; Outside City. The rates for water used outside the city shall be as follows:

Base charge per month - \$12.90

1 to 10,000 gallons - \$3.20 per thousand (1,000) gallons

10,001 to 20,000 gallons - \$3.45 per thousand (1,000) gallons

20,001 to 50,000 gallons - \$3.70 per thousand (1,000) gallons

Over 50,000 gallons - \$3.95 per thousand (1,000) gallons

(Ord. 1985, Sec. 1; Code 2010)

15-221. OWNERSHIP OF WATER INSTALLATION AND METER. The city expressly retains the title to and the ownership of the water service installation, the water meter and all service equipment used in connection with the supply of water to any premises or building within the city. In the event of subdivision of any lots or parcels of ground or the transfer of the title to other persons, any water service installed previous to the subdivision of the lot shall be and remain with the building or premises immediately adjacent thereto. All transfers of the ownership of any property in the city now or thereafter reserved by water by any existing installation shall be deemed not to affect this rule and the city will only supply water to the building or premises immediately adjacent to the service connection through the service previously installed. (Code 1975, 20-108; Code 1991, 14-229)

15-222. EXTENSION OF WATERLINES. The city may extend its waterlines within or without the city by construction or purchase when applications have been made and agreements entered into by persons along the proposed extension that will in the judgment of the governing body produce a revenue sufficient to pay the interest on the cost of the extension and the cost of extending water service; provided, that the city may make extensions within the city without application in the manner provided by law; provided further, that the city may at its option require any applicant from outside the city limits to who it may decide to sell water to construct his or her own connection to the waterlines within the city at his or her own expense and to maintain the same at the expense of the owner; provided further, that any extension of water service outside the city limits shall be subject to the approval of the governing body. (Code 1975, 20-109; Code 1991, 14-230)

15-223. TRENCHING AND BACKFILLING. No excavation made by a plumber in the public grounds shall be kept open longer than is absolutely necessary to make the connections required and while open, the ditch or excavation shall be protected by suitable barriers, guards and lights, as provided by ordinances pertaining to such

work. The backfilling shall be thoroughly compacted and left in a condition satisfactory to the department. Where such excavation or backfilling is made in an unsatisfactory manner, the department shall cause it to be corrected and the charges thereof shall be charged to the plumber. (Code 1975, 20-110; Code 1991, 14-231)

15-224. CROSS-CONNECTIONS PROHIBITED. No person, company, corporation or institution 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 public water supply of the City of Augusta, unless said source is approved by the City Council of the City of Augusta and the Kansas Department of Health and Environment. (Ord. 1867, Sec. 2; Code 1991, 14-232; Code 2010)

15-225. SAME; PROTECTIVE BACKFLOW DEVICES REQUIRED. Approved devices to protect against backflow or backsiphonage shall be installed at all fixtures and equipment where backflow and/or backsiphonage may occur and where there is a hazard to the potable water supply in that polluted water or other contaminating materials may enter into the public water supply. Any situation in which a heavy withdrawal of water, such as a sudden break in the main or water being used from a fire hydrant, may cause a negative pressure to develop which could lead to backsiphonage of polluted water into the system shall be improper and must be protected by approved backflow preventive valves and systems as determined by the superintendent. (Ord. 1867, Sec. 3; Code 1991, 14-233)

15-226. SAME; INSPECTION. The Public Works Director or his designate of the City of Augusta 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 of Augusta, Kansas. (Ord. 1867, Sec. 4; Code 1991, 14-234; Code 2010)

15-227. SAME; PROTECTION FROM CONTAMINANTS. Pursuant to the authority given under Home Rule Powers and K.S.A. 65-163a, the City of Augusta, 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 the condition is corrected to the satisfaction of the City. In addition, the City shall have the authority to immediately terminate water service to 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 of Augusta. (Ord. 1867, Sec. 5; Code 1991, 14-235)

15-228. INCORPORATION BY REFERENCE. There is hereby incorporated by reference for the purpose of regulating cross connections between the public water supply and any source of contamination that certain manual adopted by the Governing Body of the City Augusta, known as, "MANUAL OF REGULATIONS REGULATING BACKFLOW AND BACKSIPHONAGE OF CONTAMINANTS DUE TO CROSS CONNECTIONS FOR THE CITY OF AUGUSTA PUBLIC WATER SUPPLY". No fewer than three (3) copies of said manual shall be marked or

stamped, "Official Copy as Adopted by Ordinance No. 1867", and to which shall be attached a copy of this ordinance, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours. (Ord. 1867, Sec. 6; Code 2010)

ARTICLE 3. ELECTRICITY

- 15-301. ELECTRIC SERVICES. Any person desiring electric current of the Augusta Municipal Electric Light Plant for any of the services herein set forth, and having made a meter deposit for each service required as provided for herein, shall be entitled to receive electric current for the service required for the premises or fixture designated; provided, that the electric wiring and apparatus in such premises or fixture shall conform and continue to conform to the ordinances of the city, relating to the installation, operation and maintenance of electric wiring and apparatus. The electric metering shall be installed as directed by the electric distribution superintendent. (Code 1975, 20-102, Code 1991, 14-301)
- 15-302. RIGHT TO DISCONTINUE SERVICE. The city hereby reserves the right to discontinue service to any or all electric customers, without notice, when same is necessary in the repair of the electric system or any part thereof. (Code 1975, 20-103; Code 1991, 14-302)
- 15-303. RATES. The users of electrical current or electrical energy from the municipally owned electric utility of the city shall be classified as follows:
- (a) Residential;
 - (b) Commercial;
 - (c) Power;
 - (d) Commercial and Power services combined.
- The charges under such classified uses of electrical current or electrical energy shall be as stated as hereinafter set forth.
(Ord. 1310, Sec. 1; Code 1991, 14-303)
- 15-304. RESIDENTIAL SERVICE. The Application, character of services and net monthly rate for residential service shall be as follows:
- (a) Application: To provide electric service for all domestic purposes in single family residences and individually metered apartments when supplied at one point of delivery and measured through one watt hour meter.
 - (b) Character of Service: Alternative current at approximately 60 cycles, single phase at such voltage as may be available for the service required.
 - (c) Net Monthly Rate:
 - Base Rate: \$8.00 per month
 - \$0.1055 per kWh for first 500 kWh
 - \$0.1015 per kWh for next 500 kWh
 - \$0.0965 per kWh for all additional kWh
 - (d) Fuel and Energy Cost Adjustment (FECA): The Augusta retail electric rates are based on the total cost of natural gas, diesel and lubricants consumed at the Augusta Power Plants, and for all costs associated with purchased power. The annual average base cost is equivalent to \$0.0471 per Net Kilowatt Hour (KWH) delivered to the Augusta electric system.
Whenever the monthly average cost of fuel and lubricants plus purchased power differs from the base cost of \$0.0471 per Net KWH, all Augusta billings of the succeeding month shall be increased or decreased accordingly as the actual

cost of fuel and lubricants plus purchased power was above or below the base cost.

The monthly electric usage for all streetlights and traffic lights will be deducted from the calculation of the fuel and energy cost adjustment to assist with covering the costs of these services to the City of Augusta. For the purpose of this calculation, 85,000 kWh will be used as the monthly electric usage for the streetlights and traffic lights.

This fuel and energy cost adjustment (FECA) shall be made each month, and shall apply to each KWH sold.

(Ord. 1937, Sec. 1; Code 2010)

15-305. COMMERCIAL SERVICE. The application, character of service and rates for commercial electric service in the city shall be as follows:

(a) Application : To all electric service supplied to any commercial customer whose entire requirements on the premises are supplied under this rate at one metering point

Base Rate: \$25.00 per month

\$0.1015 per kWh for the first 8,000 kWh

\$0.0895 per kWh for the next 20,000 kWh

\$0.0865 per kWh for all additional kWh

To all electric service supplied to any commercial customer located 1,500 feet or more outside of the city limits using three phase commercial power.

Base Rate: \$200.00 per month

\$0.1015 per kWh for the first 8,000 kWh

\$0.0895 per kWh for the next 20,000 kWh

\$0.0865 per kWh for all additional kWh

(b) Fuel and Energy Cost Adjustment (FECA):

The Augusta retail electric rates are based on the total cost of natural gas, diesel and lubricants consumed at the Augusta Power Plants, and for all costs associated with purchased power. The annual average base cost is equivalent to \$0.0471 per Net Kilowatt Hour (KWH) delivered to the Augusta electric system.

Whenever the monthly average cost of fuel and lubricants plus purchased power differs from the base cost of \$0.0471 per Net KWH, all Augusta billings of the succeeding month shall be increased or decreased accordingly as the actual cost of the fuel and lubricants plus purchased power was above or below the base cost.

The monthly electric usage for all streetlights and traffic lights will be deducted from the calculation of the fuel and energy cost adjustment to assist with covering the costs of these services to the City of Augusta. For the purpose of this calculation, 85,000 kWh will be used as the monthly electric usage for the streetlights and traffic lights.

This fuel and energy cost adjustment (FECA) shall be made each month, and shall apply to each KWH sold.

(Ord. 1999, Sec. 2; Code 2010)

15-306. TOTAL ELECTRIC. The users of electrical current or electrical energy from the municipally owned electric utility of the city, who shall use such electrical energy, to the exclusion of all other power sources, for the source of all heating, air

conditioning, lighting and water heating in any residence, business or commercial establishment shall pay effective January 1, 2007, the following rates for the following time period, as follows:

(a) Net Monthly Rate - Business/Commercial November through May:

Base Rate: \$25.00 per month
\$0.0860 per kWh

June through October:

Base Rate: \$25.00 per month
\$0.0860 per kWh for the first 600 kWh
\$0.0910 per kWh for all additional kWh

(b) Net Monthly Rate - Residential November through May:

Base Rate: \$8.00 per month
\$0.0860 per kWh

June through October:

Base Rate: \$8.00 per month
\$0.0860 per kWh for the first 600 kWh
\$0.0910 per kWh for all additional kWh

Provided, that prior to the application of the above rates any user shall make application to the City Clerk and upon inspection of facilities and acceptance thereof by the City, the rates and charges herein above fixed shall apply so long as the facilities, as to power sources, shall remain the same as of the time of the original inspection; but at such time as such power sources shall change or the connected load shall exceed that herein above set forth, the rates above set forth shall no longer apply.

(c) Fuel and Energy Cost Adjustment (FECA)

The Augusta retail electric rates are based on the total cost of natural gas, diesel and lubricants consumed at the Augusta Power Plants, and for all costs associated with purchased power. The annual average base cost is equivalent to \$0.0471 per Net Kilowatt hour (KWH) delivered to the Augusta electric system.

Whenever the monthly average cost of fuel and lubricants plus purchased power differs from the base cost of \$0.0471 per net KWH, all Augusta billings of the succeeding month shall be increased or decreased accordingly as the actual cost of fuel and lubricants plus purchased power was above or below the base cost.

The monthly electric usage for all streetlights and traffic lights will be deducted from the calculation of the fuel and energy cost adjustment to assist with covering the costs of these services to the City of Augusta. For the purpose of this calculation, 85,000 kWh will be used as the monthly electric usage for streetlights and traffic lights.

This fuel and energy cost adjustment (FECA) shall be made each month, and shall apply to each kWh sold. (Ord. 1999; Code 2010)

15-307. **CONNECT FEE.** The governing body shall establish, by resolution, a fee for each connection to the electrical and water utilities operated by the city for those customers who are currently connected to the system, who have no past due balances with their account in good standing and wish to have their service relocated to another address within the utility system. For those customers who do not currently have connections to the utility system the fee is hereby established in the sum established from time to time by Resolution of the Governing Body of the

City of Augusta, Kansas for each connection to the electrical and water utilities operated by the city. Such fee shall be payable each time the electrical or water utility is reconnected at the request of the customer. (Ord. 1849, Sec. 2; Code 2010)

15-308.

ELECTRIC TRANSFORMER AND SERVICE CONNECTION FEES. (a) The City shall supply and install the transformer and associated materials which are necessary to provide electric service for all new residential, commercial and industrial customers. For underground service, the developer or customer shall be responsible for trenching and the installation of conduit according to city specifications. The City will be responsible for supplying the meter can to the electrician except that the City shall retain and install the meter can for three phase pad mount transformers. The City shall charge an Electric Transformer Fee to assist in the payment of the expenses associated with the provision of electric service to the customer. The Electric Transformer Fee shall be paid to the City at the time the required building permits are issued by the Building Department.

(b) Fees for all overhead and underground three phase service shall be calculated based on the cost to the City for the transformer and associated materials. The City shall work with the customers to identify the amperage load and size of transformer. They city will also document to the customer the cost of the transformers and associated materials.

(c) Single Phase Electric Transformer and Service Connection fees shall be established from time to time by Resolution of the Governing Body for the City of Augusta, Kansas.

(d) Fees for all overhead to underground service conversions shall be calculated on the actual cost of associated wire and materials to the city. The customer shall be responsible for the conduit and installation of the conduit from the meter can to the transformer pad or utility pole. Conduits shall be installed by a licensed electrician in accordance with the most recently adopted National Electric Codes and any local amendments.

(e) For an upgrade of an existing service over 200 amps single phase which requires a new transformer, the customer will receive a credit for the existing transformer and pay the difference between the two transformer costs.

(f) Connection of the overhead service cable to the customer shall be at the service mat or attachment point on the house as applicable. Installation of the meter can, service mast, attachment point and electrical cable from the meter can to the weather head/attachment point shall be installed by a licensed electrician in accordance with the most recently adopted National Electric Codes and any local amendments.

(g) The City retains ownership of all transformers, meters, meter cans and service drop cable or service lateral cable. (Ord. 1941; Code 2010)

ARTICLE 4. SEWERS

15-401. DEFINITIONS. Unless the context clearly indicates otherwise, the meaning of words and terms used in this article shall be as follows:

(a) 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 two feet (0.61 meter) outside the innerface of the building wall.

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

(c) B.O.D. (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 parts per million by weight.

(d) City - shall mean the City of Augusta.

(e) Combined Sewer - shall mean a sewer receiving both surface run-off and sewage

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

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

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

(i) Normal Domestic Wastewater - shall mean wastewater that has a BOD concentration of not more than 250 mg/1 and a suspended solids concentration of not more than 300 mg/1.

(j) 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.

(k) pH - shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

(l) Person - shall mean any individual, firm, company, association, society, corporation, or group. Singular includes plural, male includes female.

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

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

(o) Replacement - shall mean expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary furthering 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.

(p) Residential Contributor - shall mean any contributor to the city's treatment works whose lot, a parcel or real estate or building is used for domestic dwelling purposes only.

(q) Sanitary Sewer - shall mean a sewer which carries sewage and to which storm surface, and ground waters are not intentionally admitted.

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

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

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

(u) Sewer - shall mean a pipe or conduit for carrying sewage.

(v) Shall is mandatory; May is permissive.

(w) 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 or flows during normal operation.

(x) 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.

(y) Suspended Solids (SS) - 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.

(aa) Treatment Works - shall mean any devices and systems for 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, alterations thereof; elements essential to provide a reliable recycle supply such as stand-by treatment units and clean well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process.

(bb) Useful Life - shall mean the estimated period during which a treatment works will be operated.

(cc) 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.

(dd) 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.

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

(Ord. 1475, Art. I, Secs. 1:22; Ord. 1523, Art II, Secs. 1:11; Code 1991, 14-401)

15-402.

NATURAL OUTLET. It shall be unlawful to discharge to any natural outlet within the city or in any area under the jurisdiction of the city, any sewage or other polluted waters, except where suitable treatment has been provided in accordance

with subsequent provisions of this article. (Ord. 1475, Art. II, Sec. 1; Code 1991, 14-402)

15-403. PRIVY UNLAWFUL. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended for the disposal of sewage. (Ord. 1475, Art. II, Sec. 2; Code 1991, 14-403)

15-404. SEWER CONNECTIONS REQUIRED. The owner of all houses, buildings, or properties used for human employment, recreation, or other purposes, situated within the city which buildings are or shall be located near a sewer, or a block within any sewer district to which a sewer extends, shall make such connection with such sewer in accordance with the provisions of this article. This may be necessary in the judgment of board of health for the purpose of disposing of all substances in such building affecting the public health which may be lawfully and properly disposed of by means of the sewer. (Ord. 1475, Art. II, Sec. 3; Code 1991, 14-404)

15-405. FAILURE TO CONNECT. If any such person shall fail, neglect, or refuse to connect any building or buildings with the sewer systems as aforesaid and as herein provided for, for more than 10 days after being notified in writing by the board of health, then the city may advertise for bids for the construction in making the sewer connection and may contract therefore with the lowest responsible bidder or bidders and cause such premises to be connected with the sewer system. The cost and expense thereof shall be assessed against the property on the premises so connected, such assessment to be made in the same manner as other special assessments are made; provided, that all such sewer connections as ordered by the board of health are in accordance with the provisions of this article and shall be in full compliance with the requirements and provisions of the plumbing code of the city. (Ord. 1475, Art. II, Sec. 4; Code 1991, 14-405)

15-406. PRIVATE SEWER SYSTEM. Where a public sanitary or combined sewer is not available under the provision of section 15-404, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this article. (Ord. 1475, Art. III, Sec. 3; Code 1991, 14-406)

15-407. SAME; PERMIT. Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit signed by the city. The application for such permit shall be made on a form furnished by the city, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the city. A permit and inspection shall be paid to the city at the time the application is filed. (Ord. 1475, Art. III, Sec. 2; Code 1991, 14-407)

15-408. SAME; INSPECTION. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the plumbing inspector. 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

plumbing inspector when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within 24 hours, by the plumbing inspector after the inspection has been called for, excepting Sundays and holidays. (Ord. 1475, Art. III, Sec. 3; Code 1991, 14-408)

15-409. SAME; DISCHARGE. (a) The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the local health department and Kansas Department of Health and Environment. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(b) At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in section 15-404, a direct connection shall be made to the public sewer in compliance with this article and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

(Ord. 1475, Art. III, Secs. 4:5; Code 1991, 14-409)

15-410. SAME; 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. (Ord. 1475, Art. III, Sec. 6; Code 1991, 14-410)

15-411. SAME; PLUMBING INSPECTOR; ADDITIONAL REQUIREMENTS. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the plumbing inspector. (Ord. 1475, Art. III, Sec. 7; code 1991, 14-411)

15-412. SAME; BUILDING SEWER CLOSING. 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 bank-run gravel or dirt. (Ord. 1475, Art. III, Sec. 8; Code 1991, 14-412)

15-413. TAMPERING WITH SEWER. 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. (Ord. 1475, Art. IV, Sec. 1; Code 1991, 14-413)

15-414. SEWER; BUILDING PERMITS; CLASSES. There shall be two classes of building sewer permits:

- (a) For residential and commercial service;
- (b) For service to establishments producing industrial wastes.

In either case, the owner or his or her agent shall make application of a special form furnished by the city. The permit applicant shall supplement by any plans, specifications, or other information considered pertinent in the judgment of the superintendent. A permit and inspection fee shall be paid to the city at the time the application is filed.

(Ord. 1475, Art. IV, Sec. 2; Code 1991, 14-414)

15-415. SAME; COSTS. 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. (Ord. 1475, Art. IV, Sec. 3; Code 1991, 14-415)

- 15-416. SAME; SEPARATE SEWER CONNECTION. 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, court yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer. (Ord. 1475, Art. IV, Sec. 4; Code 1991, 14-416)
- 15-417. SAME; OLD BUILDING SEWER USE. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the plumbing inspector, to meet all requirements of this article. (Ord. 1475, Art. IV, Sec. 5; Code 1991, 14-417)
- 15-418. SAME; MATERIALS. Materials required for the building sewer shall conform to Table A, Chapter 7 of the 2003 International Plumbing Code. (Ord. 1475, Art. IV, Sec. 6; Code 1991, 14-418)
- 15-419. SAME; SPECIFICATIONS. The size and slope of the building sewer shall be subject to the approval of the plumbing inspector, but in no event shall the diameter be less than four inches. The slope for six inch pipe shall not be less than one-eighth inch per foot. If four inch pipe is allowed, one-quarter inch per foot slope should be the minimum for that size connection. (Ord. 1475, Art. IV, Sec. 7; Code 1991, 14-419)
- 15-420. SAME; ELEVATION. (a) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to or within three feet of any bearing wall, which might therefore be weakened. The depth shall be sufficient to afford protection from frost. The building sewer shall be laid at a uniform grade and in straight alignment in so far as possible. Changes of direction shall be made only with properly curved pipe and fittings, including clean-out fittings.
(b) In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved sump pump or ejectors and discharged into the building sewer. The use of any pumping equipment for which cross-connections with a public water supply systems are needed, is prohibited.
(Ord. 1475, Art. IV, Secs. 8:9; Code 1991, 14-420)
- 15-421. SAME; EXCAVATIONS. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the city. Pipe laying and backfill shall be performed in accordance with A.S.T.M. Specifications (C12-19) except no backfill shall be placed until the work has been inspected. (Ord. 1475, Art. IV, Sec. 10; Code 1991, 14-421)

- 15-422. SAME; JOINTS. (a) All joints and connections shall be made gas tight and water tight. Cast iron pipe joints shall be firmly packed with oakum or hemp and filled with molten lead, federal specification (QQ-L-156), not less than one inch deep. Lead shall be run in one pouring and caulked tight. No paint, varnish, or other coatings shall be permitted on the jointing material after the joint has been tested and approved. All joints in vitrified clay pipe and between such pipe and metal shall be made with approved hot-poured or cold-formed asphaltic jointing material as specified below. Clay pipe may have factory applied joint, meeting A.S.T.M. Specifications (C-425).
- (b) Material for hot-poured joints should not soften sufficiently to destroy the effectiveness of a joint subjected to a temperature of 160 degrees Fahrenheit nor be solvent in any of the waste carried by the drainage system. Joints shall be caulked tight with jute, hemp or familiar approved material.
- (c) See sewer specifications for jointing compounds and other pertinent information if neither hot-poured or cold-asphaltic materials were specified. Other jointing materials and methods may be used only if approved by the Kansas State Department of Health and Environment.
(Ord. 1475, Art. IV, Sec. 11; code 1991, 14-422)
- 15-423. SAME; SEWER CONNECTION. The connection of a building sewer into the public sewer shall be made at the "Y" branch, if such branch is available at a suitable location. If the public sewer is 12 inches in diameter or less, and no properly located "Y" branch is available, the owner shall at his or her expense install a "Y" branch in the public sewer at locations specified by the building inspector. Where the public sewer is greater than 12 inches in diameter, and no properly located "Y" branch is available, a neat hold may be cut into the public sewer to receive the building sewer, with entry into the downstream direction at an angle of about 45 degrees. The 45 degree elbow may be used to make such connection, with the spigot end cut so as not to extend past the inner surface of the public sewer. A smooth, neat joint shall be made, and the connection made secure and water tight by encasement in concrete. Special fittings may be used for the connection only when approved by the plumbing inspector. (Ord. 1475, Art. IV, Sec. 12; Code 1991, 14-423)
- 15-424. SAME; INSPECTION. The applicant for the building sewer permit shall notify the city when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the plumbing inspector or his or her representative.
(Ord. 1475, Art. IV, Sec. 13; Code 1991, 14-424)
- 15-425. SAME; BARRICADES. All excavation for public sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazards. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city. (Ord. 1475, Art. IV, Sec. 14; Code 1991, 14-425)
- 15-426. ROOF; FOUNDATION DRAINS. No person shall make connection of downspouts, exterior foundation drainage, area way drains, surface run-off or

groundwater to a building sewer building drain which in turn is connected directly or indirectly to the public sanitary sewer. (Ord. 1475, Art. IV, Sec. 15; Code 1991, 14-426)

15-427. STORMWATER DRAIN. (a) No persons shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof run-off, subsurface drainage, including interior and exterior foundation drains, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

(b) Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specially designed as storm sewers, or to a natural outlet approved by the city. Industrial cooling water or unpolluted process waters may be discharged on approval of the city to a storm sewer or natural outlet. (Ord. 1475, Art. V, Secs. 1:2; Code 1991, 14-427)

15-428. PROHIBITED DISCHARGES. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(a) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, 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 or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two mg/1 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 such 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, sand mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders. (Ord. 1475, Art. V, Sec. 3; code 1991, 14-428)

15-429. SAME; LIKELY HARM. No persons shall discharge or cause to be discharged the following described substances, materials, water, or wastes if it appears likely in the opinion of the city that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can endanger life, limb, public property, or constitute a nuisance. In forming his or her opinion as to the acceptability of these wastes, the city will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited:

(a) Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit (65 degrees centigrade).

(b) Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of 100 mg/1 or containing substances which may solidify or become viscous at temperatures between 32 degrees and 150 degrees Fahrenheit (0 degrees 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 three-fourths horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the city.

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

(e) Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the city for such materials.

(f) Any waters or wastes containing phenols, or other taste- or odor-producing substances, in such concentration exceeding limits which may be established by the city 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 city in compliance with applicable state or federal regulations.

(h) Any waters or wastes having a pH in excess of (9.5).

(i) Material which exert or cause:

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

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

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

(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 water.

(k) Any waters or wastes having (1) a five-day BOD greater than 250 parts per million by weight, or (2) containing more than 250 parts per million by weight of suspended solids, or (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 city. Where necessary in the opinion of the city, the owner shall provide, at his or her expense, such preliminary treatment as may be necessary to (1) reduce the biochemical oxygen demand to 250 parts per million by weight, or (2) reduce the suspended solids to 300 parts per million by weight, or (3) control the quantities

and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the city and no construction of such facilities shall be commenced until the approvals are obtained in writing.

(Ord. 1475, Art. V, Sec. 4; Code 1991, 14-429)

15-430. SAME; OPTIONS OF CITY. 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 14-429 of this article, and which in the judgment of the city, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the city may:

(a) Reject the wastes;

(b) Require the pretreatment to an acceptable condition for 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 rates or sewer charges under the provisions of section 14-435 of this article.

If the city permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the city and subject to the requirements of all applicable codes, ordinances and laws. (Ord. 1475, Art. V, Sec. 5; Code 1991, 14-430)

15-431. INTERCEPTORS. Grease, oil and sand interceptors shall be provided when, in the opinion of the city, 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 located as to be readily and easily accessible for cleaning and inspection. (Ord. 1475, Art. V, Sec. 6; Code 1991, 14-431)

15-432. PRELIMINARY TREATMENT; EXPENSE. 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. (Ord. 1475, Art. V, Sec. 7; Code 1991, 14-432)

15-433. CONTROL MANHOLE. When required by the city, 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 city. The manhole shall be maintained by him or her so as to be safe and accessible at all times. (Ord. 1475, Art. V, Sec. 8; Code 1991, 14-433)

15-434. TESTING STANDARDS. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this article shall

be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at 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 analyses involved will determine whether a 24 hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24 hour composites of all outfalls whereas pH's are determined from periodic grab samples.) (Ord. 1475, Art. V, Sec. 9; Code 1991, 14-434)

15-435. SPECIAL AGREEMENTS. No statement contained in 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. (Ord. 1475, Art. V, Sec. 10; Code 1991, 14-435)

15-436. DAMAGE TO SEWERS. 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. (Ord. 1475, Art. VI, Sec. 1; Code 1991, 14-436)

15-437. INSPECTION BY CITY. The city and other duly authorized employees of the city bearing proper credentials an identification shall be permitted to enter all properties for the proposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this article. The city 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. (Ord. 1475, Art. VII, Sec. 1; Code 1991, 14-437)

15-438. COMPANY INDEMNIFIED; WHEN. While performing the necessary on private properties referred to in section 15-437, the city 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 15-433. (Ord. 1475, Art. VII, Sec. 2; code 1991, 14-438)

- 15-439. ENTRY BY CITY. The city 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. (Ord. 1475, Art. VII, Sec. 3; Code 1991, 14-439)
- 15-440. PENALTIES. (a) Any person found to be violating any provision of this article except section 15-436 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 the notice, permanently cease all violations.
(b) Any person who shall continue any violation beyond the time limit provided for in subsection (a) above, shall be guilty of a code violation, and on conviction thereof shall be fined in the amount not exceed \$100.00 for each violation. Each 24 hour period in which any such violation shall continue shall be deemed a separate offense.
(c) Any person violating any of the provisions of this article shall become liable to the city for any expense, loss, or damage occasioned the city by reason of such violation.
(Ord. 1475, Art. VIII, Secs. 1:3; Code 1991, 14-440)
- 15-441. BILLS. Bills shall be rendered monthly as provided in sections 15-225:226 and shall be collected as a combined utility bill. (Code 1991, 14-441)
- 15-442. SEWER SERVICE RATES. The monthly sewer charge for service connections to the public sanitary sewer system of the City shall be based upon the average monthly water usage during the months of December, January and February as rounded to the nearest 1,000 gallons, herein after referred to as the average winter water usage and calculated using the following rates:
(A) Inside the City
(1) Minimum charge for all individual residential, commercial and industrial billing units contributing sewage to the system shall be \$7.00 per month.
(2) Based upon the average winter water usage each billing unit shall pay the following commodity charges per 1,000 gallons per month:
(a) First 10,000 gallons - \$0.61 per 1,000 gallons
(b) Next 40,000 gallons - \$0.72 per 1,000 gallons
(c) Next 50,000 gallons - \$0.77 per 1,000 gallons
(d) Over 100,000 gallons - \$0.88 per 1,000 gallons
(3) For calculating the monthly sewer service rates for a building with multiple billing units which share a common water meter and sewer connection and where one customer is billed for all water and sewer service to that building, the rate shall include the minimum charge for each billing unit within the facility and the commodity charge per 1,000 gallon usage based upon the average winter water usage.

(4) For the purpose of calculating the commodity charge for sewer customers who are not connected to the City's water system or for those sewer customers where there exists no established average winter water usage, the City will use an average of 6,000 gallons per month.

(5) The average winter water usage from which the service fees are based will be adjusted annually on or after April 1.

(B) Sewer Capital Fee - Inside the City

(1) Each residential, commercial and industrial billing unit with service connections contributing sewage to the system shall pay a monthly sewer capital fee that is to be used toward the retirement of the debt for the wastewater treatment plant, annual costs related to inflow and infiltration maintenance and repairs within the sewer collection system, sewer collection system equipment and a wastewater system capital reserve fund. This monthly fee is in addition to the regular monthly sewer service charges as identified in Section 15-443 (A).

(2) The monthly sewer capital fee shall be based upon the average winter water usage as rounded to the nearest even 1,000 gallons. For calculating this monthly fee for sewer customers who are not connected to the City's water system or for those sewer customers where there exists no established water usage, the City shall use the average of 6,000 per month.

(3) Upon determining the average winter water usage, each sewer customer shall be placed within a user class tier and pay the monthly sewer capital fee for that usage tier. The average winter water usage used to determine the sewer capital fee will be reviewed annually and adjusted at the same time the average winter water usage is adjusted for the regular monthly sewer commodity charges.

(4) Based upon the average winter water usage, each sewer customer shall pay the following sewer capital fee:

- (a) Tier One 0 to 5,000 gallons - \$ 15.00
- (b) Tier Two 5,001 to 10,000 gallons - \$ 25.00
- (c) Tier Three 10,001 to 20,000 gallons - \$ 50.00
- (d) Tier Four 20,001 to 50,000 gallons - \$ 75.00
- (e) Tier Five 50,001 to 100,000 gallons - \$120.00
- (f) Tier Six Over 100,000 gallons - \$180.00

(5) The average winter water usage will be used to determine the sewer capital fee for a building with multiple billing units which share a common water meter and sewer connection and where one customer is billed for all water and sewer service to that building.

(C) Outside the City

(1) Minimum charge for all individual residential, commercial and industrial billing units contributing sewage to the system shall be \$8.50 per month.

(2) Based upon the average winter water usage each billing unit shall pay the following commodity charges per 1,000 per gallon per month:

- (a) First 10,000 gallons - \$0.72 per 1,000 gallons
- (b) Next 40,000 gallons - 0.83 per 1,000 gallons
- (c) Next 50,000 gallons - \$0.88 per 1,000 gallons
- (d) Over 100,000 gallons - \$0.99 per 1,000 gallons

(3) For calculating the monthly sewer service rates for a building with multiple billing units which share a common water meter and sewer connection and where one customer is billed for all water and sewer service to that building, the rate shall include the minimum charge for each billing unit within the facility and the commodity charge per 1,000 gallon usage based upon the average winter water usage.

(4) For the purpose of calculating the commodity charge for sewer customers who are not connected to the City's water system or for those sewer customers where there exists no established average water usage, the City will use an average of 6,000 per month.

(5) The average winter water usage from which the service fees are based will be adjusted annually on or after April 1.

(D) Sewer Capital Fee - Outside the City

(1) Each residential, commercial and industrial billing unit with service connections contributing sewage to the system shall pay a monthly sewer capital fee that is to be used toward the retirement of the debt for the wastewater treatment plant, annual costs related to inflow and infiltration maintenance and repairs within the sewer collection system, sewer collection system equipment and a wastewater system capital reserve fund, This monthly fee is in addition to the regular monthly sewer service charges as identified in Section 15-443 (C).

(2) The monthly sewer capital fee shall be based upon the average winter water usage rounded to the nearest even 1,000 gallons. For calculating this monthly fee for sewer customers who are not connected to the City's water system or for those sewer customers where there exists no established water usage, the City shall use the average of 6,000 per month.

(3) Upon determining the average winter water usage, each sewer customer shall be placed within a user class tier and pay the monthly sewer capital fee for that usage tier. The average winter water usage used to determine the sewer capital fee will be reviewed annually and adjusted at the same time the average winter water usage is adjusted for the regular monthly sewer commodity charges.

(4) Based upon the average winter water usage, each sewer customer shall pay the following sewer capital fee:

- (a) Tier One 0 to 5,000 gallons - \$ 18.00
- (b) Tier Two 5001 to 10,000 gallons - \$ 30.00
- (c) Tier Three 10,001 to 20,000 gallons - \$ 60.00
- (d) Tier Four 20,001 to 50,000 gallons - \$ 90.00
- (e) Tier Five 50,001 to 100,000 gallons - \$145.00
- (f) Tier Six Over 100,000 gallons - \$215.00

(5) The average winter water usage will be used to determine the sewer capital fee for a building with multiple billing units which share a common water meter and sewer connection and where one customer is billed for all water and sewer service to that building.

(Ord. 1986, Sec. 1; Code 2010)

15-443.

SERVICE CHARGES. The following be and the same are hereby established as just and equitable rates of service charges to be paid to the city for the use of

the city's sewer disposal system by all persons, firms, corporations, the United States, the State of Kansas and political subdivisions and any organizations whose premises are connected, or may hereafter be connected, to the sanitary sewer system of the city:

(a) Single-Family Dwelling Units. The base rate shall apply.

(b) Multiple-Family Dwelling Units. Each separate dwelling unit is the multiple-dwelling establishment shall be charged per month, the same being the minimum charge under the base rate plus water usage.

(c) Rooming Houses. The rate for rooming houses shall be the same as computed in the same manner as single-family dwelling units to be extent and as though the same were a single-family dwelling unit, taking into consideration, of course, the entire average water use of such premises.

(d) Business and Commercial Building, Institutions, Schools and Churches, Other than Offices and Office Buildings. Where such building is occupied by a single business, industrial or commercial enterprise, or institution, schools or churches, each separate building or buildings, as the case may be, having a separate water metering facility, shall have its sewage service charge computed upon the base rate.

(e) Office Buildings and Other Industrial Establishments, Institutions, Schools and Churches. Where more than one of such are occupied and maintained as separate entities, using a separate quarter, room or space, all of which are under the same roof and in the same building, having a single water meter in the facility for all such establishments, shall have each of their respective sewage service charges computed in the same manner as provided for multiple-family dwellings as set out herein above.

(f) Extra Strength Users. All establishments having a connection to the sanitary sewer facility of the city discharging wastes greater than normal strength waste as defined by this article shall have their monthly sewage service charge established by the base rate plus the charge as computed by the equation for extra strength users. Twenty-four hour composite sample will be ran at least every six months to determine the surcharge. The samples collected shall have sample collected at no less than hourly intervals over a 24 hour period.

(g) Unusual or Exceptional Circumstances or Classifications. If any unusual or exceptional case or circumstances such as where a leak, wastage or stoppage of water use has occurred during the base period, or such as where the subject premises are unoccupied for a substantial period of time during the base period, or such as where the average water use during the base period is either excessive or less than which would normally be expected thereon, or such as here accurate metering or measuring of average water use cannot be obtained, or such as where the premises connected to the sanitary sewer system of the city are creating a substantially greater or less load upon the sewer system by reason of a substantially larger or smaller or peculiar or unusual type of discharge in the sanitary sewer system, and such as where the premises is a newly erected building not in existence during the entire base period, or such as water used on the premises connected to the city's sanitary sewer system is both from a metered and unmetered use, and such as where for any other cause or reason it would be inequitable, unjust or unreasonable, either to the owner or occupant of the premises or to other users of the sanitary sewer system of the city, to charge a

rate under any of the classifications herein above described, the city manager, in his or her discretion, may and is hereby authorized, from time to time to adjust such sewage service charges for such premises, either upward or downward to a rate, which he or she deems equitable, just and reasonable. Provided, that nothing herein shall be construed as limiting or prohibiting any person who feels aggrieved by such adjustment.

(h) Extra Strength Charge. The charge to users which contribute greater than normal domestic strength wastewater. The surcharge shall be computed by the following equality:

$$Cs = [Bc (B) + Sc (S)] 0.00084 Vu$$

Where:

Cs = A surcharge for wastewaters of excessive strength.

Bc = Operation and Maintenance Cost for Treatment of a unit of Biochemical Oxygen Demand (BOD) = 0.121.

B = Concentration of BOD from a user above a base level as stated in

Sc = Operation and Maintenance Cost for treatment of a unit of Suspended Solids (SS) = 0.124

S = Concentration of Suspended Solids from a user above a base level as stated in

Vu = Volume contribution from a user per unit of time

0.00084 = Unit conversion factor per 1,000 gallons

Extra Strength Unit Charges are established as follows:

Inside City and Outside City:

BOD 0.121/# BOD

Suspended Solids 0.124/ # SS

(i) Toxic Pollutant Charge. Any user which discharges any toxic pollutants which causes an increase in the cost of managing the effluent or the sludge from the city's treatment plants shall pay for such increased costs.

(j) Monitoring Charge. When regulations, as set forth, by federal, state and city require monitoring of the waste from an industry, whether of strength, calculations or for NPDES compliance, that industry shall pay a monitoring charge.

The monitoring charge shall consist of all costs for personnel, material and equipment used to collect and analyze samples from the user's wastewater.

The exact charge shall be based on actual costs and shall be determined by the city.

(Ord. 1523, Art. IV, Sec. 2; Code 1991, 14-444)

ARTICLE 5. REFUSE

15-501. DEFINITIONS. For the purpose of this article, the following definitions shall apply:

(a) Contractor - shall mean a person with whom the city has a contract to collect and dispose of refuse and garbage.

(b) Person - shall mean any individual, firm, association, syndicate, copartnership, corporation, trust, other legal entity having proprietary interest in a premises, or other legal entity having responsibility for an act.

(c) Garbage - shall mean the solid or semisolid animal and vegetable waste resulting from the handling, preparation, cooling and serving of foods, including cans, bottles and cartons in which it was received and wrapping in which it may be placed for disposal.

(d) Refuse - shall mean all solid waste from residential, commercial or industrial premises. It shall include semi-liquid or wet wastes with insufficient moisture and other liquid contents to be free flowing. It shall not include, except for minor amounts incidental to other wastes, any refuse resulting from building evacuation, demolition, or remodeling work, or any construction work, nor shall it include stumps, grass clippings, yard waste, limbs, tree trunks, tree trimmings, and limbs, or the tree trimmings resulting from the cutting down, or the topping of any tree, regardless of who performs the work, nor shall it include refuse resulting from tornado, cyclone, extreme windstorms, ice storms, flood or other act of God, or the burning of any building.

(e) Standard Containers - shall mean tapered plastic or galvanized metal containers, watertight with tight setting covers approximately 32 gallons or less in capacity with cover, handle and side bails or plastic bags, in or out of the container, tied or sealed, or as otherwise approved by the city; provided, that a standard container when full of garbage and refuse as used herein shall not exceed the total weight of 60 pounds inclusive of the container.

(Code 1975, 14-101; code 1991, 14-501)

15-502. COLLECTION; REFUSE, GARBAGE BY CITY. All refuse and garbage accumulated within the city shall be collected, conveyed and disposed of by the city or by the employees of the city or by contractors specifically authorized to collect and dispose of refuse and garbage or by persons collecting and disposing of their own refuse and garbage. (Code 1975, 14-102; Code 1991, 14-502)

15-503. CONTRACTS. The governing body of the city shall have the right to enter into a contract with any responsible person or persons; provided, that the contractor shall collect and dispose of all, or any part of refuse within the city, the terms of the contract to be arranged and determined by the governing body of the city and the contract to be awarded to a responsible person or persons after proper negotiation; provided further, that the contract for the collection and disposal of refuse as herein defined shall in no way conflict with the terms and conditions of this article. (Code 1975, 14-103; Code 1991, 14-503)

15-504. ACCUMULATION; STORAGE OF REFUSE; GARBAGE. It shall be the duty of every person owning, managing, operating, leasing, or renting any premises or

any place where garbage or refuse accumulates, to provide, and at all times to maintain in good order and repair, on any premises a portable container or containers for refuse storage of sufficient capacity and of sufficient numbers to accommodate and securely hold all of the garbage and refuse that may accumulate between regular scheduled collection. Garbage and refuse shall be accumulated and handled for pickup or transported as follows, to wit:

(a) All refuse and garbage shall be placed in standard containers; except, it shall not be necessary to place books, boxes, magazines, or newspapers in containers; provided, that they are securely tied in bundles or completely contained in disposal boxes not larger than 24"x24"x36", provided further, that in collection of garbage and refuse as set forth and defined in section 15-508(c) of this article containers other than standard containers may be used when such other containers shall be accepted and approved in advance by application made to the city clerk.

(b) Baskets, boxes, and noncomplying refuse or garbage cans or containers shall be considered disposable refuse and shall be removed by the contractor if they are the proper size and otherwise acceptable for collection; or shall be left uncollected if they are larger than the allowable size or unacceptable for collection.

(c) Large bulky items such as furniture and appliances that cannot be reduced to fit approved containers will not be collected by routine collection as provided herein but the same will be collected by the city, or by persons acting under the authority or by contract with such city upon notification by any person or persons that such items are to be collected. A rate shall be charged for such collections commensurate with the amount of time and equipment necessary to collect and dispose of such items.

(d) Within the corporate limits of the city, all garbage or refuse, consisting of waste, animal and vegetable matter, which may attract flies, dogs, or rodents, shall be drained of all excess liquid, wrapped in paper or disposal containers and placed or stored, until collected, in covered standard containers.

(e) No person shall permit to accumulate on any premises, improved or vacant, or on any public place in the city, such quantities of garbage or refuse, either in containers or not, that shall in the opinion of the city, constitute a health or sanitation hazard.

(f) No person shall permit to accumulate quantities of refuse, papers, trash, ashes, or other waste materials, within or close to any building in the city, unless the same is stored in containers in such a manner as not to create health or fire hazard.

(g) No person shall bury refuse and garbage at any place within the city or keep, place, or deposit refuse and garbage on any public or private grounds or premises whatsoever, except in containers or receptacles for collection upon premises owned, occupied, or under possession and control of such person; provided, that lawn and garden trimmings may be composted.

(h) No person shall accumulate and transport garbage and refuse upon any premises and transport the same to other premises within the city for the purpose of collection by the city, but collection shall be made only upon premises where such garbage and refuse shall have accumulated by use.

(i) No person shall create, cause, or add to any refuse accumulation not placed for regular or special haul, or cause unwholesome odors, or cause the

attraction or collection of insects or rodents, or burn any garbage, leather, rubber, plastic, green or wet vegetation or organic material, or burn any other substance producing some problems within the city unless the operations are carried out in an approved type incinerator.

(j) No person shall haul or cause to be hauled any garbage, refuse, or other waste material of any kind, to any dumping place or site or area, within or without the corporate limits of the city, unless such place, or site is operated by the contractor or is a sanitary landfill site approved by the Kansas State Department of Health; in addition to complying with all applicable health ordinances of the city.

(k) No person shall deposit in a garbage or refuse container or otherwise offer for collection any hazardous garbage, refuse, or waste. Hazardous materials shall be transported by the owner, responsible person or his or her agent, to a place of safe deposit or disposal as prescribed by the sanitation officer or his or her authorized representative. Hazardous material shall include: explosive materials, rags or other waste soaked in volatile and flammable materials, drugs, poisons, radioactive materials, highly combustible material and/or other wastes, contaminated by infection or contagious disease, and other materials which may present a special hazard to collection or disposal personnel or equipment or to the public.

(Code 1975, 14-104; Code 1991, 14-504)

15-505.

COLLECTION; GARBAGE, REFUSE. The city, or its authorized contractor, shall collect from the residential areas of the city not less than twice weekly and from the designated business routes and all food establishments of the city, not less than twice weekly. It shall be the duty of any person in possession or in control of any premises to make available for collection all garbage and refuse as follows, to wit:

(a) Residential Areas. Standard containers and supplemental material to be collected as aforesaid shall be placed on the outside of the fence in areas where there is an alley contiguous to the particular premises and to the curb at the front side of the house in all areas where there are no contiguous alleys; provided, that when any person or persons shall live alone and shall have a physical impairment that makes the moving of containers for pickup to the designated spots unusually difficult then such person may make application to the city clerk for variance from the requirements for placing containers in designated places. The city clerk shall be authorized to permit variances by changing collection to a specific place on the premises and may require such proof of impairment as may be necessary to make full determination.

(b) Commercial Areas. Standard containers, other approved containers and supplemental material shall be placed outside of buildings or other enclosures in areas where alleys shall be contiguous to the establishment. Otherwise in such place or places readily accessible to the collector.

(c) Heavy accumulations such as brush, broken concrete, ashes, sand, or gravel, automobile frames, dead trees, and other bulky, heavy materials shall be disposed of at the expense of the owner or person controlling same.

(d) Manure, waste oils from garages or filling stations, tire rubber or materials considered hazardous and/or dangerous, shall be removed and

disposed of at the expense of the person controlling same in the manner and by the method directed by the sanitation office.

(Code 1975, 14-105; Code 1991, 14-505)

15-506. PERMITS. No person shall collect or haul over the city streets in the city, any garbage or refuse unless such person shall have a contract with the city; provided, that this section shall not apply to departments of city government of the city; provided further, that nothing in this section shall be construed to prevent a person from hauling or disposing of his or her own refuse accumulated at his or her residence or business establishment, in such a manner as not to endanger the public health or safety, not to create a nuisance to the inhabitants of the city and not to litter the streets and alleys of the city. (Code 1975, 14-106; Code 1991, 14-506)

15-507. AUTHORIZED PERSONS; EXCEPTION. The contractor or any person authorized by him or her, his or her agents and employees shall have the right to remove or haul garbage or refuse, and shall not be a prohibited person as provided in the above section. Nothing elsewhere contained in this article shall be construed as prohibiting construction contractors, tree surgeons, roofers and other private contractors, whose operations result in the accumulations of refuse, from hauling and disposing of accumulations of garbage and refuse resulting from their own operations; provided, that they shall at all times comply with the regulations and provisions of this article. (Code 1975, 14-107; Code 1991, 14-507)

15-508. CHARGES; COLLECTION; DISPOSAL. The City in providing the service of collecting and disposing of all refuse and garbage accumulated within the City for the purpose of preventing unsanitary, unsightly, hazardous, unhealthful and dangerous conditions caused by the accumulation of garbage and refuse, shall establish and collect a service charge or fee to defray the cost and maintenance of service and to pay any person contracting with the City for the collection and disposal by the contractor for the collection and disposal thereof Such charges and fees shall be computed, based and charged to the owners or occupants of dwelling units or commercial establishments as nearly as practicable upon the basis of volume or time expended in the collection and disposal thereof.

(a) There shall be a charge, assessed and collected from each residential unit within the City the sum of \$13.00 per month.

(b) In the case of multiple or group dwellings, other than motels or boarding houses, there shall be a charge as hereinafter set forth. Such buildings, where a two cubic yard or larger trash container approved by the City and capable of being lifted mechanically by the refuse truck is located at a central point accessible to the refuse truck and shall be large enough to accommodate all refuse from the living units shall be charged at the rate of \$13.00 per month per occupied unit for two pickups per week. Charges will be added to the water or electric billing if each unit is billed separately for water or electric service. Where all of the living units are on a single meter the charges for the number of occupied units will be billed to the owner. Where each unit has its individual pickup point, without a two cubic or larger trash container, the charge will be \$13.00 per month and billed as stated above, The owner of the building or dwelling shall be charged the rental fee of the

container when the City provides such container(s), under the rate structure set forth below.

(c) There shall be charged, assessed and collected from each commercial institution, establishment, office, including but not limited to motels, restaurants, boarding houses, office buildings, stores, etc., charges to be assessed as provided, to wit:

(1) There shall be a minimum charge of \$14.95 per month to each person so long as on each collection the pickup shall consist of not more than three standard containers, which must be used, as defined herein.

(2) For pickups of over three standard containers, there shall be the minimum charge of \$14.95 per month to each commercial establishment plus \$2.20 for each standard container above three and less than seven, so long as only standard containers are used. If more than six standard containers are needed, the owner must provide a container approved by the City and capable of being lifted mechanically by the refuse truck.

(3) For the collection of garbage, refuse and rubbish by the City where approved attachable containers rented from the City are utilized, the following monthly fees shall be charged:

	Collections Per Week				
Dumpster Size	2	3	4	5	6
2 Yards	\$52.73	\$72.74	\$92.82	\$112.84	\$132.62
2.5 Yards	\$60.79	\$85.05	\$108.96	\$133.25	\$156.81
3 Yards	\$63.69	\$90.54	\$117.09	\$143.88	\$170.73
4 Yards	\$74.72	\$106.74	\$141.67	\$167.58	\$209.84
5 Yards	\$93.39	\$133.42	\$177.09	\$220.73	\$262.30
6 Yards	\$112.08	\$160.11	\$212.51	\$264.88	\$314.77

(4) Privately owned containers shall not be charged the rental fee established hereby. The owner of the private containers indemnifies and holds harmless the City for damages and maintenance of the container.

(5) City owned containers rented for use shall only be used for collection of refuse described herein. Other uses are strictly prohibited. All containers, either privately or City owned shall retain all lids in operable condition. Properly sized containers must be used, all refuse must be contained inside the container, with the lid closed tight.

(6) If for any reason that the City is required to add a lock to secure the lids of a container for a customer, there will be an additional charge of \$2.00 per month per container.

Rates for multiple container rentals shall be computed on a monthly basis as follows:

<u>Dumpster Size</u>	<u>Rental</u>
2 Yards	\$20.70
2.5 Yards	\$25.30
3 Yards	\$28.75
4 Yards	\$34.50
5 Yards	\$43.70
6 Yards	\$51.75

(1) Any commercial customer receiving twice-weekly service who shall place for collection any refuse not in a prescribed container, shall pay an additional charge which shall be computed at the rate of \$67.00 per hour consumed in each pickup.

(2) The person or establishments above may request additional pickups be made each week with rates to be increased by \$14.95 per collection for a container up to two cubic yards or \$29.84 per collection for a container between 2.5 and 4 cubic yards, \$37.31 per collection for a container of 5 cubic yards, or \$44.77 per collection for a container of 6 cubic yards.

(3) The person or establishments above located outside the City, shall be charged 125 percent of the in-city rate.

(Ord. 1997; Code 2010)

15-509. DUTY TO REQUEST GARBAGE SERVICE. To assist in maintaining the general sanitation of the city, it shall be the duty of every person occupying or having control of the occupancy of any premises located on a regularly established garbage and refuse route to notify the city clerk of the city at the beginning of such occupancy and request, accept and use the garbage and refuse pickup and collection service; provided, that the failure of any owner, rental agent or occupant of such premises to make such request shall not prevent nor in any way impair or impede the city from adding the address of such premises to the proper garbage and refuse collection route records and providing such service and otherwise enforcing by appropriate action the regulatory measures herein prescribed and causing the fees or charges therefor to be paid. (Code 1975, 14-109; Code 1991, 14-509)

15-510. BILLING; COLLECTION OF GARBAGE, REFUSE. The city clerk shall prepare monthly billings or charges to be made by virtue of section 15-508 of this article and such charges shall be payable monthly except any charges which may be made by the city manager with the consent of the governing body for unusual accumulation of garbage; provided, that such charges may be billed by the city clerk on any monthly statement rendered for electricity or water bills and any unpaid charges under this article are hereby declared to be a lien upon and may be deducted from any electric or water utility deposit in the hands of the city clerk. Payment of the aforesaid charges are hereby expressly declared to be the liability of the tenant of the premise using the garbage and refuse collection service, but in the event that the owner or landlord of such premises is liable for the payment of either the electric or water utility bills thereon, the landlord or the owner, as the case may be, shall also be liable for the payment of the charges assessed herein. In the event that persons using the garbage and refuse collection system shall not be a customer of the city water department, a bill shall be rendered for such service in the manner directed by the city manager and all bills shall be payable at the same time and in the same manner as city water or electric bills. (Code 1975, 14-110; Code 1991, 14-510)

15-511. CHARGES TO BE ON UTILITY BILL. The charges as herein set shall be assessed against every person as herein above defined that shall receive either

water or electric service from the city and no payment shall be accepted by the city, except for the full amount billed for all services, and delinquent refuse and garbage bill shall carry the due dates, grace periods and penalties as utility bills. (Code 1975, 14-111; Code 1991, 14-511)

15-512. COMMERCIAL DUMPING AT COMPOST/LIMB SITE. (a) All Commercial Businesses operating within the City of Augusta that include Tree Services and/or Mowing Services will be required to obtain a permit to allow for the dumping of grass clippings, yard waste, and limbs at the City compost/limb site located at 400 South grove during its normal hours of operation. Permits will be monitored by City of Augusta employees at the compost/limb site.

(b) USD 402 will not be required to obtain a permit allowing the dumping grass clippings, yard waste, and limbs a the City compost/limb site as long as they do not hire commercial operators for these types of services. (Ord. 1998; Code 2010)

15-513. SAME; PERMIT. Permits can be purchased at the Inspection Office located in City Hall at 113 East 6th Avenue. The permit fee shall be established from time to time by Resolution of the Governing Body of the City of Augusta, Kansas. Permits will be valid from the date of purchase until December 31st if the year of purchase. Permit fees will not be pro-rated based on the date of purchase. (Ord. 1998; Code 2010)

ARTICLE 6. WATER CONSERVATION

15-601. PURPOSE. The purpose of this article is to provide for the declaration of a water supply emergency and the implementation of voluntary and mandatory water conservation measures throughout the city in the event such an emergency is declared. (Code 1991, 14-601)

15-602. 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.

(c) 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.

(d) 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 area; 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.

(Code 1991, 14-602)

15-603. DECLARATION OF A WATER EMERGENCY. Whenever the governing body of the city finds that an emergency exists by reason of a shortage of water supply needed for essential uses, it shall be empowered to declare by resolution that a water supply emergency exists and that it will encourage voluntary water conservation or impose mandatory restrictions on water use during the period of the emergency. Such an emergency shall be deemed to continue until it is declared by resolution of the governing body to have ended. The resolutions declaring the existence and end of a water supply emergency shall be effective upon their publication in the official city newspaper. (Code 1991, 14-603)

15-604. VOLUNTARY CONSERVATION MEASURES. Upon the declaration of a water supply emergency as provided in section 15-603, the mayor is authorized to call on all water consumers to employ voluntary water conservation measures to limit or eliminate non-essential water uses including, but not limited to, limitations on the following uses:

- (a) Sprinkling of water on lawns, shrubs or trees (including golf courses).
 - (b) Washing of automobiles.
 - (c) Use of water in swimming pools, fountains and evaporative air conditioning systems.
 - (d) Waste of water.
- (Code 1991, 14-604)

15-605. MANDATORY CONSERVATION MEASURES. Upon the declaration of a water supply emergency as provided in section 15-603, the mayor is also authorized to implement certain mandatory water conservation measures, including, but not limited to, the following:

- (a) Suspension of new connections to the city's water distribution system, except connections of fire hydrants and those made pursuant to agreements entered into by the city 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.

(Code 1991, 14-605)

15-606. EMERGENCY WATER RATES. Upon the declaration of a water supply emergency as provided in section 15-603, 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 the 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).

(Code 1991, 14-606)

15-607. REGULATIONS. During the effective period of any water supply emergency as provided for in section 15-603, the mayor is empowered to promulgate such regulations as may be necessary to carry out the provisions of this article, any water supply emergency resolution, or emergency water rate ordinance. Such regulations shall be subject to the approval of the governing body at its next regular or special meeting. (Code 1991, 14-607)

15-608. VIOLATIONS, DISCONNECTIONS AND PENALTIES. (a) If the city manager, water superintendent, or other city official or officials charged with implementation and enforcement of this article or a water supply emergency resolution or ordinance learn of any violation of any water use restrictions imposed

pursuant to sections 15-605 or 15-607, a written notice of the violation shall be affixed to the property where the violation occurred and the customer of record and any other person known to the city who is responsible for the violation or its correction shall be provided with either actual or mailed notice. The notice shall describe the violation and order that it be corrected, cured or abated immediately or within such specified time as the city determines is reasonable under the circumstances. If the order is not complied with, the city may terminate water service to the customer subject to the following procedures:

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

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

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

(b) A fee of \$50.00 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 \$200.00 for the second violation and \$300.00 for any additional violations.

(c) Violation of this article shall be a municipal offense and may be prosecuted in municipal court. Any person so charged and found guilty in municipal court of violating the provisions of this article shall be guilty of a municipal offense. Each day's violation shall constitute a separate offense. The penalty for an initial violation shall be a mandatory fine of \$100. In addition, such customer may be required by the court to serve a definite term of confinement in the city or county jail which shall be fixed by the court and which shall not exceed 30 days. The penalty for a second or subsequent conviction shall be a mandatory fine of \$200. In addition, such customer shall serve a definite term of confinement in the city or county jail which shall be fixed by the court and which shall not exceed 30 days.

(Code 1991, 14-608)

15-609. EMERGENCY TERMINATION. Nothing in this article shall limit the ability of any properly authorized city official from terminating the supply of water to any or all service as required to protect the health and safety of the public. (Code 1991, 14-609)

CHAPTER XVI. ZONING AND PLANNING

- Article 1. City Planning Commission /
Board of Zoning Appeals
- Article 2. Zoning Regulations
- Article 3. Subdivision Regulations
- Article 4. Flood Plain Zoning

ARTICLE 1. CITY PLANNING COMMISSION/ BOARD OF ZONING APPEALS

- 16-101. COMMISSION RE-ESTABLISHMENT. There is hereby established the Augusta City Planning Commission which is composed of seven members of which five members shall be residents of the city and two members shall reside outside the city, but within the designated planning area of the city which is within at least three miles of the corporate limits of the city. (Code 2010)
- 16-102. MEMBERSHIP, TERMS, INTEREST AND COMPENSATION. The members of the planning commission shall be appointed by the mayor with the consent of the governing body at the first regular meeting of the governing body in May of each year and take office at the next regular meeting of the commission. All members shall be appointed for staggered terms of three years each. The appointments shall be so made that the terms of office of the members residing outside of the corporate limits of the city do not expire within the same year. By the re-establishment of the commission, all current members continue to serve their present terms of office. In case of death, incapacity, resignation or disqualification of any member, appointment to such a vacancy on the commission shall be made of the unexpired term of the member leaving the membership. Should any member have a conflict of interest, either directly or indirectly, in any matter coming before the commission, he or she shall be disqualified to discuss or vote on the matter. The governing body may adopt rules and regulations providing for removal of members of the commission. Members of the commission shall serve without compensation, but may be reimbursed for expenses actually incurred in the performance of their duties as deemed desirable by the governing body. (Code 2010)
- 16-103. MEETINGS, OFFICERS AND RECORDS. The members of the planning commission shall meet at such time and place as may be fixed in the commission's bylaws. The commission shall elect one member as chairperson and one member as vice-chairperson who shall serve one year and until their successors have been elected. A secretary shall also be elected who may or may not be a member of the commission. Special meetings may be called at any time by the chairperson or in the chairperson's absence by the vice-chairperson. The commission shall adopt bylaws for the transaction of business and hearing procedures. All actions

by the commission shall be taken by a majority vote of the entire membership of the commission; except that, a majority of the members present and voting at the hearing shall be required to recommend approval or denial of an amendment to the zoning regulations, a rezoning amendment or a special use permit. A proper record of all the proceedings of the commission shall be kept. The commission, from time to time, may establish subcommittees, advisory committees or technical committees to advise or assist in the activities of the commission. (Code 2010)

16-104. **POWERS AND DUTIES.** The governing body and planning commission shall have all the rights, powers and duties as authorized in K.S.A. 12-741 et seq., and amendments thereto, which are hereby incorporated by reference as part of this section and shall be given full force and effect as if the same had been fully set forth. The commission is hereby authorized to make or cause to be made, adopted and maintained a comprehensive plan for the city and any unincorporated territory lying outside of the city but within Butler 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. (Code 2010)

16-105. **BOARD OF ZONING APPEALS.** The planning commission is hereby designated to also serve as the city's board of zoning appeals with all the powers and duties as provided for in K.S.A. 12-759. The board shall adopt rules in the form of bylaws for its operation which shall include hearing procedures. Such bylaws shall be subject to the approval of the governing body. Public records shall be kept of all official actions of the board which shall be maintained separately from those of the commission. The board shall keep minutes of its proceedings showing evidence presented findings of fact, decisions and the vote upon each question or appeal. A majority of the members of the board present and voting at the hearing shall be required to decide any appeal. Subject to subsequent approval of the governing body, the board shall establish a scale of reasonable fees to be paid in advance by the appealing party. (Code 2010)

16-106. **BUDGET.** The governing body shall approve a budget for the planning commission and make such allowances to the commission as it deems proper, including funds for the employment of such employees or consultants as the governing body may authorize and provide, and shall add the same to the general budget. Prior to the time that moneys are available under the budget, the governing body may appropriate moneys for such purposes from the general fund. The governing body may enter into such contracts as it deems necessary and may receive and expend funds and moneys from the state or federal government or from any other resource for such purposes. (Code 2010)

ARTICLE 2. ZONING REGULATIONS

16-201. ZONING REGULATIONS INCORPORATED. (a) There are hereby incorporated by reference as if set out fully herein, the zoning regulations adopted by the governing body of the City of Augusta, Kansas, as prepared by the city and consisting of Ordinance Nos. 1455, 1472, 1480, 1505, 1553, 1582 and entitled, "Zoning Regulations of the City of Augusta, Kansas." No fewer than three copies of the zoning regulations, marked "Official Copy as Incorporated by Ordinance No. 1480" and to which there shall be a published copy of this section attached, shall be filed with the city clerk to be open for inspection and available to the public at all reasonable business hours.

(b) Aforementioned zoning regulations are amended and supplemented by ordinances 1632, 1662, 1696, 1719, 1758, 1800, 1870, 1929, 1949, 1954, 1955, 1974, 1977, 1982, 1994 and 1995.
(Ord. 1455; 1472; 1480; 1505; 1553; 1582; 1632; 1662; 1696; 1719; 1758; 1800; 1870; 1929; 1949; 1954; 1955; 1974; 1977; 1982; 1994; 1995; Code 2010)

ARTICLE 3. SUBDIVISION REGULATIONS

- 16-301. REGULATIONS INCORPORATED. (a) There are hereby incorporated by reference, as if set out fully herein, certain regulations governing the subdivision of land located within the City of Augusta, Kansas and certain surrounding area as described therein, as adopted by the governing body of the City of Augusta, Kansas and prepared by the city and consisting of Ordinance Nos. 1481, 1506, 1552 and 1578, and entitled "Subdivision Regulations of the City of Augusta, Kansas." No fewer than three copies of the subdivision regulations marked "Official Copy as incorporated by Ordinance No. 1481" and to which there shall be a published copy of this section attached, shall be filed with the city clerk to be open for inspection and available to the public at all reasonable hours.
- (b) Aforementioned subdivision regulations are amended and supplemented by ordinances 1643,1661, 1697, 1759, 1789, 1813, 1834, 1872, 1933 and 1943. (Ord. 1552; 1578; 1661; 1834; 1872; 1933; 1943; Code 2010)

ARTICLE 4. FLOOD PLAIN ZONING

16-401.

Pursuant to the provisions of K.S.A. 12-3009, 12-3010 and 12-3301, there is hereby incorporated by reference for the purpose of providing floodplain management regulations within the City of Augusta, Kansas, all of the regulations contained in the document known as the "Floodplain Management Ordinance for the City of Augusta, Kansas", which is known as The Model Floodplain Management Ordinance as approved and recommended by the Federal Emergency Management Agency Region VII and the Kansas Department of Agriculture, Division of Water Resources, Floodplain Program. No fewer than three copies of the Floodplain Management Ordinance for the City of Augusta, Kansas, shall be marked or stamped "Official Copy as incorporated by Ordinance No. 1982 of the City of Augusta, Kansas," and such copies shall be filed with the city clerk to be open to inspection and available to the public at all reasonable business hours, provided that such official copies may not be removed from city hall. All city officials requiring the use of the Floodplain Management Ordinance for the City of Augusta, Kansas, shall be supplied, at the expense of the City, such number of official copies of such ordinance as may be deemed expedient by the Governing Body. (Ord. 1982; Code 2010)

ARTICLE 5. PUBLIC BUILDING COMMISSION

- 16-501. **CREATION.** Under the authority of the Act there is hereby created by the Governing Body a municipal corporation to be known as the “City of Augusta, Kansas Public Building Commission” (the PBC). (Ord. 1822; Code 2010)
- 16-502. **COMPOSITION.** The PBC shall be composed of nine (9) members (the “Members”). The members of the Governing Body and the Mayor are hereby appointed as Members and the terms of office of the Members shall be co-terminus with such Members’ terms of office as members of the Governing Body, or as Mayor, respectively, and terms of office for such future Members shall be co-terminus with such Members’ terms of office as members of the Governing Body, or as Mayor respectively. In the event that the PBC provides building or structures that are leased to governmental entities other than the City, the composition of the PBC shall be modified by subsequent ordinance of the Governing Body to conform to the requirements of the Act. (Ord. 1822; Code 2010)
- 16-503. **PURPOSE, POWERS AND FUNCTIONS.** The PBC is created for the purposes of and shall have the powers and shall perform the functions set forth in, the Act, as may be amended or supplemented, including by home rule action of the City. The Governing Body, by ordinance or charter ordinance hereafter taking effect, shall have the authority to limit, expand or otherwise alter the purposes, powers, and functions of the PBC. (Ord. 1822; Code 2010)
- 16-504. **SUPPORT SERVICES.** Unless otherwise approved by the Governing Body, the City administrative staff shall provide administrative services to the PBC and the City’s financial advisor, bound counsel and City Attorney shall provide legal services to the PBC. (Ord. 1822; Code 2010)
- 16-505. **FURTHER ACTION.** The PBC shall have the authority to adopt bylaws, resolutions or other official actions authorized by the Act and not inconsistent with the provisions of this Article to govern its actions. (Ord. 1822; Code 2010)