

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 Holyrood, Kansas. The municipal court shall have jurisdiction to hear and determine cases involving violations of the ordinances of the city. (Code 1997)
- 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 1997)
- 9-103. TIME AND PLACE OF SESSIONS. Municipal court shall be held in the municipal courtroom in the city hall building on such days and at such hours as the municipal judge designates.
(Code 1997)
- 9-104. MUNICIPAL JUDGE; APPOINTMENT. The municipal court shall be presided over by a municipal judge. The mayor, subject to the approval of the city council, shall appoint the judge of the municipal court.
(Code 1997)
- 9-105. SAME; ABSENCE; VACANCY; PRO TEM. In the event the municipal judge is temporarily unable to preside due to absence, illness or disqualification, the municipal judge shall designate an attorney or other qualified person to act as judge pro tempore. In the event the municipal judge fails to appoint a judge pro tempore, the judge pro tempore shall be appointed in the same manner as the municipal judge is selected. The judge pro tempore shall receive compensation as shall be provided by ordinance, payable in the same manner as the compensation of the regular municipal judge.
In the event a vacancy shall occur in the office of municipal judge, a successor shall be appointed to fill the unexpired term in the same manner as the municipal judge was appointed.
(K.S.A. 12-4107; Code 1997)
- 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 1997)
- 9-107. SAME; SALARY. The municipal judge shall receive a salary as shall be fixed by ordinance.
(Code 1997)
- 9-108. COURT CLERK. There is hereby established the office of the clerk of the municipal court of the City of Holyrood, Kansas, which office shall be filled by appointment by the mayor. The duties of the office shall be those prescribed by the Code for Municipal Courts set forth in Chapter 12, Article 41 of the Kansas Statutes,

and shall include the following duties:

(a) The clerk shall issue all process of the court, administer oaths, file and preserve all papers, docket cases and set same for trial and shall perform such further acts as may be necessary to carry out the duties and responsibilities of the court. The clerk shall receive, account for and pay to the city treasurer monthly all fines and forfeited bonds paid into the court. The clerk shall make reports to the judicial administrator and furnish the information when requested by him, her or a departmental justice on such forms furnished by the judicial administrator, and approved by the supreme court.

(b) The clerk of the municipal court shall within 10 days after selection and before entering upon the duties of office, execute to the city such bond as the governing body may require, which shall be approved by the governing body, and file in the office of the city clerk, conditioned for the faithful performance of the duties required of him or her by law, and for the faithful application and payment of all moneys that may come into his or her hands in the execution of the duties of the office. The city shall pay the cost of such bond.

(c) The monthly salary of the clerk shall be fixed by ordinance.

(d) A majority of all members of the council may remove the clerk appointed under the authority of this article, or for good cause the mayor may temporarily suspend any such appointed clerk.

(K.S.A. Supp. 12-4108; Code 1997)

9-109. PAYMENT OF FINE. Where a municipal court judgment against any person results in a fine and/or court costs only, the same shall be satisfied by paying the amount of such fine and/or court costs to the municipal court immediately on the rendition of judgment, or at such time as the municipal judge shall determine. (Code 1997)

9-110. SAME; FAILURE TO PAY SEPARATE VIOLATION. It shall be unlawful for any person to willfully fail to pay any lawfully imposed fine for a violation of any law of the city within the time authorized by the court and without lawful excuse having been presented to the court on or before the date the fine is due. Such conduct constitutes a violation of this article, regardless of the full payment of the fine after such time. (Code 1997)

9-111. FAILURE TO APPEAR. (a) It shall be unlawful for any person charged with violation of any law of the city to fail to appear before the municipal court when so scheduled to appear, unless lawful excuse for absence is presented to the court on or before the time and date scheduled for appearance.

(b) For the purpose of subsection (a), failure to appear shall include willfully incurring a forfeiture of an appearance bond and failure to surrender oneself within 30 days following the date of such forfeiture by one who is charged with a violation of the laws of the city and has been released on bond for appearance before the municipal court for trial or other proceeding prior to conviction, or willfully incurring a forfeiture of an appearance bond and failing to surrender oneself within 30 days after his or her conviction of a violation of the laws of the city has become final by one who has been released on an appearance bond by any court of this state.

(c) Any person who is released upon his or her own recognizance, without surety, or who fails to appear in response to a summons, notice to appear, or traffic citation duly served upon him or her personally shall be deemed a person released on bond for appearance within the meaning of subsection (b) of this section.

(d) Failure to appear, upon conviction thereof, shall be punishable by incarceration for up to 30 days and/or a fine of up to \$250.00.
(Code 1997)

9-112.

COURT COSTS. The court costs for municipal court shall be set at \$95.00.
(Ord. 588, Sec. 1)

CHAPTER X. POLICE

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

ARTICLE 1. POLICE DEPARTMENT

- 10-101. POLICE DEPARTMENT. The law enforcement department shall consist of a chief of police and such number of regular law enforcement officers as shall be appointed as provided by K.S.A. 15-204.
(Code 1997)

- 10-102. LAW ENFORCEMENT PERSONNEL; GENERAL DUTIES. It shall be the general duty of the chief of police and all sworn law enforcement personnel to the best of their ability to preserve good order, peace and quiet throughout the city as provided by law or ordinance.
The chief of police and all sworn law enforcement personnel shall at all times have power to make arrest under proper process or without process on view of any offense against the laws of the State of Kansas or laws of the city and to keep all persons so arrested, unless admitted to bail, in the 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.
(Code 1997)

- 10-103. RULES AND REGULATIONS. The chief of police shall have power to make such rules and regulations as may be necessary for the proper and efficient conduct of the department. Such rules and regulations shall be approved by the governing body.
(Code 1997)

ARTICLE 2. PROPERTY IN POLICE CUSTODY

- 10-201. REGULATIONS. The police department is required to establish regulations detailing the collection, storage, and inventory of property which may come under its control by any manner.
(Code 1997)
- 10-202. DISPOSITION. Any property which has been acquired or turned over to the police department and has been classified in accordance with procedures existing in the police department as unclaimed or for which the proper owner cannot be ascertained shall be kept for a minimum of 90 days. After a period of 90 days, such property, except as provided in section 10-203, shall be sold at public auction to the highest bidder and the proceeds after expenses shall be paid to the city general fund. (Code 1997)
- 10-203. SAME; EXEMPT PROPERTY. The following classes of property shall be considered exceptions to section 10-202 and shall be dealt with in the following manner:
- (a) Cash money shall be turned over to the city general fund unless it shall be determined to have collector's value, in which case it shall be auctioned according to the provisions in section 10-202.
 - (b) Firearms which are available for disposition may be dealt with in the following manner:
 - (1) If compatible with law enforcement usage, they may be turned over to the police department inventory.
 - (2) They may be sold to a firearms dealer who maintains the appropriate federal firearms license.
 - (3) They may be destroyed.
 - (4) In no case shall firearms be sold at public auction.
 - (c) Other weapons such as knives, etc., which are deemed to have a legitimate value may be sold at auction, however, homemade weapons or weapons of a contraband nature shall be destroyed.
 - (d) Any items determined to be contraband such as explosives, narcotics, etc., shall be destroyed.
 - (e) Items of a pharmaceutical nature, which, while not contraband when properly dispensed, or which are of an over-the-counter-variety, shall be destroyed.
 - (f) Foodstuffs, if sealed and undamaged may be turned over to any appropriate social service agency or destroyed, but shall not be auctioned.
 - (g) Alcohol products such as beer, wine, whiskey, etc., shall be destroyed.
 - (h) Items with a value in excess of \$500 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 1997)
- 10-204. CLAIMING PROPERTY. The police department shall be required to make reasonable attempts to locate the owner of any property in storage. However, the responsibility for claiming and identifying any such property shall rest solely with the owner.
(Code 1997)

10-205. PROOF OF OWNERSHIP. Claimants to any property in police storage shall be required to present reasonable proof of ownership and no property shall be released unless such reasonable proof is presented.
(Code 1997)

10-206. AUCTION. At such time as it has been determined that an auction is necessary to dispose of unclaimed property, an inventory listing all property to be disposed of shall be prepared and kept on file in the police department. Notice of an auction shall be published at least twice in a general circulation newspaper prior to the date of the auction. The notice shall specify the date, time and place of the auction and shall also notify prospective buyers or potential claimants that a list of items to be auctioned is available at the police department and any claims on property must be made prior to the start of the auction.
(Code 1997)

ARTICLE 3. POLICE FEES

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

Host: The person who owns or is in possession of the property where the party, gathering or event takes place, or the person in charge of the premises, or the person who organized the event. If the host is a minor, then the parents or guardians of that minor will be jointly and severally liable for the fee incurred for police services.

Party, Gathering or Event: An event involving a group of persons who have assembled or are assembling for a social occasion or for a social activity.

Police Services Fee: The cost to the city of any special security assignment, including, but not limited to, salaries of police officers while responding to or remaining at the party, gathering or event, the pro rata cost of equipment, the cost of repairing city equipment and property, the cost of any medical treatment of injured police officers, and the cost of reasonable attorney fees.

Special Security Assignment: The assignment of police officers, services and equipment during a second or subsequent response to the party, gathering or event after the delivery of a written notice to the host that a fee may be imposed for costs incurred by the city for any subsequent police response.

(Code 1997)

10-302. INITIAL POLICE RESPONSES TO PARTIES, GATHERINGS OR EVENTS. When any police officer responds to any party, gathering or event, and that police officer determines that there is a threat to the public peace, health, safety, or general welfare, the police officer shall issue a written notice to the host or hosts that a subsequent response to that same location or address within 24 hours of the first response shall be deemed a special security assignment rendered to provide security and order on behalf of the party, gathering or event and that the host may be liable for a police services fee as defined in this article.
(Code 1997)

10-303. SUBSEQUENT POLICE RESPONSES TO PARTIES, GATHERINGS OR EVENTS; LIABILITY. If, after a written notice is issued pursuant to section 10-302, a subsequent police response or responses is necessary to the same location or address within 24 hours of the first response, such response or responses shall be deemed a special security assignment. Persons previously warned shall be jointly and severally liable for a police services fee as defined in this article.

 The amount of the fee shall be a debt 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 1997)

10-304. COST; COLLECTION. The chief of police shall notify the city treasurer in writing of the performance of a special security assignment, of the name and address of the responsible person or persons, the date and time of the incident, the services performed, the costs and such other information as may be required. The city treasurer shall thereafter cause appropriate billings to be made.

(Code 1997)

CHAPTER XI. PUBLIC OFFENSES

- Article 1. Uniform Public Offense Code
- Article 2. Local Regulations
- Article 3. Curfew

ARTICLE 1. UNIFORM PUBLIC OFFENSE CODE

- 11-101. **INCORPORATING UNIFORM PUBLIC OFFENSE CODE.** There is hereby incorporated by reference for the purpose of regulating public offenses within the corporate limits of the City of Holyrood, Kansas, that certain code known as the "Uniform Public Offense Code," Edition of 2016, 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 Incorporated by the Code of the City of Holyrood, Kansas," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this section, and filed with the city clerk to be open to inspection and available to the public at all reasonable hours.
(Code 2005)

ARTICLE 2. LOCAL REGULATIONS

- 11-201. **ALLOWING MINORS TO POSSESS WEAPONS.** It shall be unlawful for the parent, guardian, custodian or any other person having the custody or control of any minor to knowingly or unknowingly permit such minor to use, carry or discharge any air gun, spring gun, pellet gun, sling shot or other similar device within the city limits of the city or knowingly or unknowingly to permit any such minor to have in his or her possession or under his or her control any such air gun, spring gun, pellet gun, sling shot, or other similar device in or upon any public street, public building, or other public place within the city.
(Ord. 305, Sec. 1)
- 11-202. **PROHIBITING LITTERING.** (a) It shall be unlawful for any person or persons to place, throw, rake, deposit, dump, drop or spill any dirt, filth, excrement, waste material, compost, papers, boxes, ashes, lumber, coal, wood, kindling, grass, weeds, leaves, slops, foreign matter or litter of any kind in or on streets, sidewalks, alleys, parks or other public right-of-ways of the city.
(b) Any person violating any provision of this section shall, upon conviction thereof, be fined in a sum not to exceed \$100.00, or be imprisoned for a period not to exceed 30 days, or by both such fine and imprisonment.
(Ord. 555, Secs. 1, 2)

ARTICLE 3. CURFEW

- 11-301. CURFEW ESTABLISHED. There is hereby enacted a curfew within the corporate limits of the city.
(Ord. 575, Sec. 1)
- 11-302. UNLAWFUL ACTS. It shall be unlawful for any minor under the age of 18 years of age to idle, wander, stroll or play in or upon the public streets, sidewalks, highways, roads, alleys, parks, playgrounds, or any public place or to operate or ride in any conveyance or to be on any private property without permission where said minor is unsupervised by a parent, guardian or other adult having the lawful care and control over said minor during the following periods of time:
(a) On any day between the hours of 11:00 p.m. and 6:00 a.m. from Sunday through Thursday or between the hours of midnight and 6:00 a.m. on any Friday or Saturday.
(Ord. 575, Sec. 2)
- 11-303. EXCEPTIONS TO THE ARTICLE. (a) When a minor of any age is accompanied by his or her parent, guardian or other adult having the lawful care, custody and control of the minor.
(b) When the minor is on an emergency errand at the direction of his or her parent, guardian or other adult having the lawful care, custody and control of the minor.
(c) When the minor is attending or traveling directly to or from a school sponsored activity, entertainment, recreational activity or dance.
(d) When the minor is attending or traveling directly to or from lawful employment.
(e) When the minor is attending or traveling directly to or from an activity involving the exercise of the minor's Constitutional rights of free speech, freedom of assembly or free exercise of religion.
(f) When the minor is in transit through the city.
(g) When any person under the age of 18 years is legally married.
(Ord. 575, Sec. 3)
- 11-304. PARENTAL RESPONSIBILITY. Except under the circumstances outlined in section 11-303 (a) through (g), it shall be unlawful for any parent, guardian or other adult having the care, custody or control over said minor to permit said minor to violate the provisions of this article.
(Ord. 575, Sec. 4)
- 11-305. PENALTIES. (a) Any police officer finding a minor in a first time violation of this article shall warn said minor to cease and desist from such violations and to return home immediately and shall cause a written notice to be served upon the parent, guardian or other adult having the care, custody or control of said minor, setting forth in detail the violations committed by the minor. For the purposes of this section notice shall be deemed properly served upon such parent, guardian or other adult having the care, custody or control of the minor if a copy of the notice is served upon him or her personally, or if a copy thereof is sent by certified mail, return receipt requested, to his or her last known address.
(b) Any parent, guardian or other adult having the care, custody and control over a minor who shall permit said minor to violate the provisions of this article after having

receiving notice shall upon conviction thereof be fined not less than \$25.00 but not more than \$100.00 for the first conviction. For a second or subsequent conviction, be fined not less than \$50.00 nor more than \$500.00 and shall be subject to imprisonment for a period of not less than two days but not more than ten days. The municipal court judge shall have authority to suspend said period of incarceration if the judge deems it to be in the interest of justice and in the best interests of the defendant.
(Ord. 575, Sec. 5)

CHAPTER XII. PUBLIC PROPERTY

Article 1. City Parks

ARTICLE 1. CITY PARKS

- 12-101. CITY LAWS EXTENDED TO PARK. The laws of the city shall extend to and cover all city parks.
(Code 1997)
- 12-102. POLICE JURISDICTION OVER PARKS. The city shall have police regulations governing any public parks belonging to the city and the chief of police and law enforcement officers of the city shall have full power to enforce city laws governing city parks and shall maintain order therein.
(Code 1997)
- 12-103. DAMAGING PARK PROPERTY. It shall be unlawful for any person, except duly authorized city employees, to willfully or wantonly remove, injure, tarnish, deface or destroy any building, walk, bench, tree or improvement or property of any kind belonging to any park owned by the city.
(Code 1997)
- 12-104. DANGEROUS WEAPONS NOT ALLOWED. (a) Except as provided in subsection (b), it shall be unlawful for any person to carry or have in his or her possession any firearm or dangerous weapon or to shoot or discharge the same within the limits of any city parks.
(b) The provisions of subsection (a) above shall not apply to duly authorized law enforcement officers in the performance of official duty.
(Code 1997)
- 12-105. VEHICLE REGULATIONS. (a) Motor vehicles, including any vehicle licensed to operate on public streets, roads and highways and motorbikes, go-carts, snowmobiles and other motorized off-the-road vehicles shall be operated in a safe and prudent manner at all times in park areas.
(b) Except as provided in subsection (d), it shall be unlawful for any person to park any motor vehicle in any area not designated for such purpose.
(c) Except as provided in subsection (d), it shall be unlawful for any person to operate any motor vehicle within any city park except upon roads, drives and parking areas established by the city.
(d) Subsections (b) and (c) above shall not apply to authorized city employees while engaged in the maintenance and care of the park.
(e) It shall be unlawful to operate any such vehicle in any park area at a speed in excess of 20 m.p.h.
(Code 1997)

- 12-106. HUNTING. It shall be unlawful for any person to pursue, catch, trap, maim, kill, shoot or take any wildlife, either bird or animal, in any manner at any time while in any city park.
(Code 1997)
- 12-107. FIRES. It shall be unlawful for any person to build or kindle any fire in any city park except in the ovens, stoves, or grills provided for that purpose by the city, and such fire must be extinguished by the person, persons or parties starting such fire, immediately after use thereof.
(Code 1997)
- 12-108. CAMPING PROHIBITED. Overnight camping is hereby prohibited in city parks except where posted.
(Code 1997)
- 12-109. SANITATION. All waste material, paper, trash, rubbish, tin cans, bottles, containers, garbage and refuse of any kind whatsoever shall be deposited in disposal containers provided for such purposes. No such waste or contaminating material shall be discarded otherwise. No sticks, stones, trash or other objects shall be thrown or discarded in or on any park lands, fountains, pools, drinking fountains, sanitary facilities, or other improvements.
(Code 1997)
- 12-110. PROHIBITION AGAINST ALCOHOLIC BEVERAGES AND CEREAL MALT BEVERAGES. It shall be unlawful for any person or persons to use, consume or have on the premises of any park or other city property within the city any alcoholic liquor or cereal malt beverage.
(Ord. 380, Sec. 2; Code 1997)
- 12-111. PRESERVATION OF NATURAL STATE. It shall be unlawful for any person, except duly authorized city employees, to take, injure, or disturb any live or dead tree, plant, shrub, or flower, or otherwise interfere with the natural state of city parks.
(Code 1997)
- 12-112. GENERAL REGULATIONS. The city may post such rules and regulations, as are approved by the governing body, pertaining to the use of the city parks in a conspicuous place in each city park. Violations of these posted rules shall constitute a violation of this code.
(Ord. 380, Sec. 5; Code 1997)

CHAPTER XIII. STREETS AND SIDEWALKS

- Article 1. Sidewalks
- Article 2. Streets
- Article 3. Trees and Shrubs

ARTICLE 1. SIDEWALKS

- 13-101. **PERMIT REQUIRED.** It shall be unlawful to construct, reconstruct or repair any sidewalk within the city until the plans first have been approved by the governing body and a permit issued for such work by the city clerk.
(Ord. 313, Sec. 5; Code 1997)
- 13-102. **SIDEWALK GRADE.** Hereafter all sidewalks constructed or reconstructed in the city shall be constructed on the established grade. When the governing body shall order a sidewalk constructed as hereafter provided, the city shall pay the cost of bringing the street to grade for the sidewalk. Where no grade has been established, the owner of abutting property may construct a sidewalk on the natural grade. If the grade has been established, the city clerk shall furnish the property owner with the official grade by reference to a stated distance above or below the street grade.
(K.S.A. 12-1801, 12-1807; Ord. 313, Sec. 1; Code 1997)
- 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.
(Ord. 313, Sec. 2; Code 1997)
- 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; Ord. 313, Sec. 6; Code 1997)
- 13-105. **SAME; CONDEMNATION, RECONSTRUCTION.** When any sidewalk, in the opinion of the governing body, become 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; Ord. 313, Sec. 7; Code 1997)

- 13-106. NOTICE; PUBLICATION. The resolution providing for the construction or reconstruction of a sidewalk, as the case may be, shall give the owner of the abutting property not less than 30 days nor more than 60 days after its publication one time in the official city paper in which to construct or cause to be constructed or reconstructed the sidewalk at his or her own expense. If the sidewalk is not constructed by the property owner within the time specified, the governing body shall cause the work to be done by contract.
(K.S.A. 12-1805; Ord. 313, Sec. 8; Code 1997)
- 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; Ord. 313, Sec. 9; Code 1997)
- 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; Ord. 313, Sec. 11; Code 1997)
- 13-109. PERFORMANCE, STATUTORY BOND. In any case where the reconstruction or construction of a sidewalk is required to be done by contract as provided in section 13-106 hereof, the governing body may require the contractor to give a bond for the faithful performance of the contract and for the construction of the sidewalk in accordance with the plans and specifications, ordinances of the city or laws of Kansas, and for all contracts exceeding \$1,000.00 entered into by the city for any such purpose a statutory lien bond required by K.S.A. 60-1111 shall be furnished.
(Code 1997)
- 13-110. OBSTRUCTING SIDEWALKS. It shall be unlawful for any person to build or construct any step or other obstruction, whether temporary or permanent, or to store, leave or allow to be left any implements, tools, merchandise, goods, containers, benches, display or show cases, on any sidewalks or other public ways in the city or to obstruct the same longer than is necessary for loading or unloading any such article or object.
(Code 1997)

13-111. SAME; EXCEPTION. The governing body may authorize the granting of temporary permits in connection with a building or moving permit for limited times only to the owner of property abutting on any sidewalk to use or encumber such sidewalk or public way of the city during the construction of any building or improvement thereon. No permit shall be issued for such purpose until plans for warning and safeguarding the public during such use of sidewalks shall have been submitted by the owner or his or her contractor and approved by the governing body.
(Code 1997)

ARTICLE 2. STREETS

13-201. EXCAVATION PERMIT. No person, other than authorized city employees, shall dig or excavate any hole, ditch, trench or tunnel in or under any street, alley, sidewalk, park or other public property or public easement through private property without first having secured a permit for such excavation. Application shall be made to the city clerk.
(Code 1997)

13-202. SAME; BOND. (a) No permit authorized in this article shall be issued until the applicant has given to the city a good and sufficient bond in the sum of \$5,000.00 conditioned that the applicant will faithfully comply with all the terms and conditions of this article, and will indemnify and hold the city harmless against all costs, expenses, damages and injuries by persons or by the city sustained by reason of the carelessness or negligence of the permit holder. No bond for this purpose shall run for longer than two years without being renewed. The bond shall remain in full force and effect as to each excavation for two years after the same has been made or completed.

(b) Any utility operating under a franchise or a contractor under contract with the city for municipal improvement shall not be required to give bond as provided in subsection (a).

(c) Each bond given under this section shall be approved by the city attorney and filed with the city clerk.
(Code 1997)

13-203. SAME; FILED. If the application is approved by the city, the city clerk shall issue a permit upon payment of a fee of \$5.00. Each permit issued under the provisions of this section shall cover only one specified excavation.
(Code 1997)

13-204. SAME; BARRICADES. Any person to whom an excavation permit is issued shall enclose all excavations which they make with sufficient barricades and danger signs at all times, and shall maintain sufficient warning lights or flares at nighttime. The holder of an excavation permit shall take all necessary precautions to guard the public against all accidents from the beginning of the work to the completion of the same.
(Code 1997)

- 13-205. SAME; UNLAWFUL ACTS. It shall be unlawful for any person, except those having authority from the city or any officer thereof to throw down, interfere with or remove any barriers, barricades, or lights placed in any street to guard and warn the traveling public of any construction work thereon or adjacent thereto.
(Code 1997)
- 13-206. CUTTING CURBS; PAVEMENT. (a) No person shall cut any curb, gutter, pavement, blacktop, sidewalk or excavate any street, alley or other public grounds of the city for any purpose without first obtaining a permit authorizing the same from the city clerk.
(b) Once the work for which the excavation was made has been completed the city shall restore the pavement, blacktop, sidewalk or other surfacing at the expense of the person from whom the excavation was made.
(c) In lieu of the city replacing pavement, it may elect to authorize utility companies or contractors to resurface streets or sidewalks with like materials, subject to approval of the street superintendent.
(Code 1997)
- 13-207. ALTERING DRAINAGE. No person shall change or alter any gutter, storm sewer, drain or drainage structure which has been constructed, or is being lawfully maintained or controlled by the city unless such change or alteration has been authorized or directed by the governing body.
(Code 1997)
- 13-208. UNFINISHED PAVEMENT. No person shall walk upon, drive or ride over or across any pavement, sidewalk or incomplete grading which has not been opened for traffic.
(Code 1997)
- 13-209. USING STREETS. (a) No person shall occupy any portion of any street, alley or sidewalk for the purpose of temporarily storing building materials without first obtaining a permit for such temporary use from the governing body.
(b) No person may use any portion of any sidewalk or street right-of-way for the purpose of displaying or offering for sale wares, goods, merchandise or other items. Nothing in this article, however, shall be construed as prohibiting the city governing body from temporarily waiving the prohibition of this subsection in connection with community promotions or community-wide celebrations when such waiver is considered to be in the best interest of the city.
(Code 1997)
- 13-210. DANGEROUS OBJECTS IN. It shall be unlawful for any person to place, throw or cause to be placed or thrown in or on any street, alley, sidewalk or other public grounds of the city, any glass, tacks, nails, bottles, wire or other dangerous objects that might wound any person or animal, or cut or puncture any pneumatic tire while passing over the same.
(Code 1997)

- 13-211. PETROLEUM PRODUCTS IN STREETS. It shall be unlawful for any person, firm or corporation to deposit or throw any waste oil, fuel oil, kerosene, gasoline or other products of petroleum or any acids into or upon any street or public grounds of the city, or willfully to permit the same to be spilled, dripped or otherwise to come into contact with the surface of any street, alley, or sidewalk within the city.
(Code 1997)
- 13-212. DISCHARGING WATER ON STREETS. It shall be unlawful for any person, firm or corporation to throw or discharge water into any ditch, street, avenue or alley in the city or to cause any water to stand or form pools or to flow in a stream thereon. This section shall not apply to persons cleaning or flushing such streets, avenues or alleys under the authority of the governing body, nor to members of the fire department.
(Code 1997)
- 13-213. BURNING IN STREETS. It shall be unlawful for any person to make or cause to be made, any fire upon any of the paved streets, alleys, or street intersections within the city.
(Code 1997)
- 13-214. THROWING IN STREETS. It shall be unlawful to throw or bat any ball, stone, or other hard substance into, on or across any street or alley or at or against any building or vehicle.
(Code 1997)
- 13-215. HAULING LOOSE MATERIAL. It shall be unlawful to haul over the streets or alleys of this city any loose material of any kind except in a vehicle so constructed or maintained as to prevent the splashing or spilling of any of the substances therein contained upon the streets or alleys.
(Code 1997)

ARTICLE 3. TREES AND SHRUBS

- 13-301. PUBLIC TREE CARE. The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure safety when servicing city utilities or to preserve the symmetry and beauty of public grounds. The city may remove or cause or order to be removed, any tree or part thereof 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 affected with any injurious fungus, insect or other pest.
(Code 1997)
- 13-302. DISEASED TREES; DETERMINATION. Whenever any competent city authority or competent state or federal authority shall file with the governing body a statement in writing based upon a laboratory test or other supporting evidence that trees or tree materials or shrubs located upon private property within the city are infected or infested with or harbor any tree or plant disease or insect or larvae, the uncontrolled presence of which may constitute a hazard to or result in the damage or extinction of other trees or shrubs in the community, describing the same and where located, the governing body shall direct the city clerk to forthwith issue notice requiring the owner or agent of the owner of the premises to treat or to remove any such designated tree, tree material or shrub within a time specified in the notice.
(Code 1997)
- 13-303. SAME; NOTICE SERVED. Notice shall be served by a police officer by delivering a copy thereof to the owner, and the person in possession of such property, or if the same be unoccupied or the owner a nonresident of the city, then the city clerk shall notify the owner by mailing a notice by certified mail to his last known address.
(Code 1997)
- 13-304. SAME; FAILURE OF OWNER; DUTY OF CITY. If the owner or agent shall fail to comply with the requirements of the notice within the time specified in the notice, then the chief of police shall proceed to have the designated tree, tree material or shrub treated or removed and report the cost thereof to the city clerk. In lieu of city employees performing any such work, the governing body may contract with any competent person, company or corporation for the performance of such work.
(Code 1997)
- 13-305. SAME; PREVENT SPREAD OF DISEASE. No tree, tree materials or shrubs as mentioned herein which have been cut down, either by the property owner or by the city, shall be permitted to remain on the premises, but shall be immediately treated, removed and burned or immediately burned upon the premises, if safe to do so, so as to prevent the spread of the tree disease.
(Code 1997)
- 13-306. DANGEROUS, DEAD OR DISEASED TREES ON PRIVATE PROPERTY. (a)
Every owner of any tree overhanging any street or right-of-way within the city shall prune the branches so that such branches shall not obstruct the light from any

street lamp or obstruct the view of any street intersection and so that there shall be a clear space of 14 feet above the surface of the street or right-of-way. The owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The city shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light, or interferes with visibility of any traffic control device or sign.

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

(Code 1997)

13-307. TREES ON PUBLIC PROPERTY; COST BORNE BY CITY. The city shall have the authority to treat or to remove any tree as defined in section 13-301 of this article, or to remove any dead tree as mentioned herein, which is located within the limits of any public right-of-way within the city. The adjacent property owners shall not be responsible for the cost of treatment or removal of any such trees within the public right-of-way and this expense shall be borne by the city at large.

(Code 1997)

13-308. COSTS ON TAX ROLLS. The city clerk shall, at the time of certifying other city taxes to the county clerk, certify the unpaid costs for treatment or removal performed under the authority of sections 13-304:306 and the county clerk shall extend the same on the tax roll of the county against the lot or parcel of ground. The cost of such work shall be paid from the general fund or other proper fund of the city, and such fund shall be reimbursed when payments therefor are received or when such assessments are collected and received by the city.

(Code 1997)

13-309. INJURING TREES AND SHRUBS. No person shall willfully break, cut, take away, destroy, injure, mutilate, or attempt to willfully break, cut, take away, destroy, injure or mutilate any tree, shrub, vine, flower or landscaping standing, growing, or being upon the premises in the possession of another, or growing on any public ground, street, sidewalk, promenade or park in the city.

(Code 1997)

13-310. FIRE HYDRANTS, PLANTINGS ADJACENT TO. No person shall plant or cause to be planted nor allow to grow upon property owned by him or her any shrubs, trees, or planting of any kind within 10 feet of any fire hydrant in the city, in order that every fire hydrant shall be in full view day or night, to fire apparatus approaching from any direction.

(Code 1997)

CHAPTER XIV. TRAFFIC

- Article 1. Standard Traffic Ordinance
- Article 2. Local Traffic Regulations
- Article 3. Abandoned Motor Vehicles on Private Property
- Article 4. Hazardous Materials
- Article 5. Operation of Work-Site Utility Vehicles and All Terrain Vehicles

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 Holyrood, Kansas, that certain standard traffic ordinance known as the "Standard Traffic Ordinance for Kansas Cities," Edition of 2016, prepared and published in book form by the League of Kansas Municipalities, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed, such incorporation being authorized by K.S.A. 12-3009 through 12-3012, inclusive, as amended. No fewer than three copies of said standard ordinance shall be marked or stamped "Official Copy as Incorporated by the Code of the City of Holyrood, Kansas," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this section, and filed with the city clerk to be open to inspection and available to the public at all reasonable hours.
(Code 2005)
- 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.
(Code 1997)
- 14-103. PENALTY FOR SCHEDULED FINES. The fine for violation of an ordinance traffic infraction or any other traffic offense for which the municipal judge establishes a fine in a fine schedule shall not be less than \$10.00 nor more than \$30.00, except for speeding which shall not be less than \$10 nor more than \$500.00. A person tried and convicted for violation of an ordinance traffic infraction or other traffic offense for which a fine has been established in a schedule of fines shall pay a fine fixed by the court not to exceed \$500.00.
(Code 1997)

ARTICLE 2. LOCAL TRAFFIC REGULATIONS

- 14-201. TRAFFIC CONTROL DEVICES AND MARKINGS. The Standard Traffic Ordinance as adopted is hereby modified by adding thereto the following:
The governing body may, by resolution, establish and fix the location of such traffic control devices as may be deemed necessary to guide and warn traffic under the provisions of this chapter, other traffic ordinances and the state laws. The city shall place and maintain such traffic control signs, signals and devices when and as may be required by the authority of the governing body to make effective the provisions of this chapter and other ordinances for the regulation of traffic. Any official traffic control device placed pursuant to this section shall be marked and labeled on a map of the City of Holyrood for the purpose of displaying all such traffic control devices and shall be filed with the city clerk to be open to inspection and available to the public at all reasonable hours of business.
(Code 1997)
- 14-202. SPEED LIMITS. The maximum rate of speed for all vehicles on all of East Concord Avenue and all of North Charles Street within the city limits of the city shall not exceed 20 miles per hour.
(Ord. 310, Sec. 1)
- 14-203. CERTAIN TRUCKS PROHIBITED. (a) Weight Limit. It shall be unlawful for any person to park any truck with a registered gross weight exceeding 20,000 pounds, upon any street or alley in the city, except as provided in subsection (b).
(b) Exceptions. Any truck may be parked on any street in the city for so long as it may be necessary to make deliveries of cargo therefore to stores, residences, or business establishments in the city or to load cargo into such trucks for delivery elsewhere.
(Code 1997)
- 14-204. MAIN TRAFFICWAY. The following described streets located within the city are or will perform the primary function of movement of through traffic between areas of concentrated activity within the city or between such areas within the city and traffic facilities outside the city performing the function of a major trafficway. Such streets, boulevards, and avenues are hereby designated and established pursuant to K.S.A. 12-685 as main trafficways, to wit:
(a) Main Street lying south of Kansas Highway 156 to the Elementary/Junior High School.
(b) Charles Street from its intersection at Nassau to Kansas Highway 156.
(c) Pennsylvania Avenue from its intersection at Nassau to Kansas Highway 156.
(d) Santa Fe from County Road to the west city limits.
(e) Nassau Street from County Road to Pennsylvania Avenue.
(f) Concord from its intersection at Pennsylvania Avenue to Illinois.
(g) Frevert Avenue from the east side of Charles Street to the west side of Main Street.
(Ord. 410, Sec. 1; Ord. 412, Sec. 1)

- 14-205. LIMITED TIME PARKING ZONE. The location commencing at the South-East corner of the intersection of Santa Fe and Charles streets, thence East for a distance of fifty (50) feet along and the South side of Santa Fe Street; commonly known as the parking area in front of the Post Office building in the City of Holyrood, Kansas is hereby designated as a fifteen minute limited time parking zone between the hours of 7:30 a.m. and 5:30 p.m.
(Ord. 431; Sec 1; Code 2005)
- 14-206. MECHANICAL ENGINE BRAKES PROHIBITED. (a) It shall be unlawful for any driver of a truck or truck-tractor to activate or use the unit's mechanical engine brake, commonly referred to as the "Jake Brake" within the city limits of Holyrood, Kansas, except in an emergency situation.
(b) The term "emergency situation," for the purposes of this section, shall mean one in which there is imminent danger of collision with property, persons or animals.
(Ord. 422, Sec. 1; Code 2005)
- 14-207. PROHIBITING THE PARKING OF MAJOR EQUIPMENT, RECREATIONAL VEHICLES, TRAILERS, FARM MACHINERY OR CONSTRUCTION EQUIPMENT ON ANY PUBLIC STREET. (a) It shall be unlawful for any major equipment or recreational vehicles such as boats, boat trailers, semi trailers, semi tractors, travel trailers, pickup campers, motor homes, coaches, camping buses, converted trucks, tent trailers, stock trailers, utility trailers, farm machinery or construction equipment to be parked on any public street for longer than a 48 hour period. However, nothing herein shall deny the right to park any such equipment for actively loading or unloading of cargo, provided that such equipment is promptly moved upon the completion of such loading or unloading.
(b) Whenever any such equipment has been left in violation of this section for more than five days, the police department is authorized to have such equipment towed at the owner's expense.
(c) Anyone found guilty of violating this section shall be subject to a fine per day of \$50.00 plus court costs. Each day that such violation is committed shall constitute a separate offense.
(Ord. 565, Secs. 1-3)

ARTICLE 3. ABANDONED MOTOR VEHICLES ON PUBLIC PROPERTY

- 14-301. DEFINITIONS. For the purpose of this article, the following terms, phrases, words and their derivations shall have the following meanings:
- (a) Highway. The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel. Where the word "highway" or the word "street" is used in this article, it means street, avenue, boulevard, thoroughfare, alley, and other public way for vehicular travel by whatever name, unless the context clearly indicates otherwise.
- (b) Motor Vehicle. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively on stationary rails or tracks.
- (c) Owner or Occupant. A party having fee simple title in the real property, or a party having a leasehold interest in the real property, or a party who is the beneficiary of a private easement for the purpose of egress or ingress to or from said real property.
(Code 1997)

- 14-302. IMPOUNDING VEHICLES. The police department may cause to be impounded:
- (a) Any motor vehicle unlawfully parked on a highway in violation of any provision of a city ordinance which prohibits the parking of vehicles at the place where or time when the impounded motor vehicle is found.
 - (b) Any motor vehicle that has been abandoned and left on a highway or other property open to use by the public for a period in excess of 48 hours pursuant to K.S.A. 8-1102.
 - (c) Any vehicle which interferes with public highway operations.
 - (d) Any motor vehicle which:
 - (1) Is subject to removal pursuant to K.S.A. 8-1570, or 8-1102, or
 - (2) Is subject to seizure and forfeiture under the laws of the state, or
 - (3) Is subject to being held for use as evidence in a criminal trial.
 - (e) Any motor vehicle, the continued presence of which, because of the physical location or condition of the motor vehicle, poses a danger to the public safety or to the motor vehicle.
 - (f) Any motor vehicle which has been abandoned or parked on any real property, other than public property or property open to use by the public, may be moved and disposed of in accordance with the terms of this article by the police department upon the request of the owner or occupant of such real property. The real property referred to herein shall not be owned or leased by the person who abandons or parks said vehicle or by the owner or lessee of such vehicle. The city or any person, partnership, corporation or their agent conducting a business enterprise for the purpose of towing vehicles which removes such vehicle from the real property at the request of the police department shall have a possessory lien on such vehicle for the cost incurred in removing, towing and storing such vehicle. For purposes of this article, common areas shall be construed not to mean public property or property open to the public.
- (Code 1997)

- 14-303. SAME. The police department may authorize storage of such impounded motor vehicles at any location, public or private, which is zoned for the storage of motor vehicles.
- (Code 1997)

- 14-304. NOTICE OF IMPOUNDMENT; STORAGE OF VEHICLE. (a) When Owner Present. When the police department intends to impound a motor vehicle pursuant to section 14-302 and the owner of the motor vehicle is then present, the police department shall before the motor vehicle is removed, provide the owner with a notice, in the form prescribed by the police department that the motor vehicle is being impounded, that towing and storage charges will be assessed against the impounded motor vehicle, that the owner may claim and regain possession of the impounded motor vehicle at the location to which it is being removed for storage without prepayment of towing and storage charges and that the owner may request a hearing as to the propriety of the impoundment and as to the amount of and the owner's liability for the towing and storage charges. The notice shall also state the location where the impounded motor vehicle will be stored and the place where the owner may make his or her request for the hearing. The notice shall also state, in prominent language, that failure by the owner to request a hearing within five days after receipt of the notice may act as a waiver of his or her right to a hearing and that this may result in the placing of a lien against the motor vehicle for the towing and storage charges

without further notice to the owner; and that the motor vehicle be sold at public auction to the highest bidder for cash after 15 days from the date of the mailing of the notice. The owner of the impounded motor vehicle shall sign the notice as an acknowledgment that he or she has received a copy of the notice and a copy of the notice shall be provided to the owner.

(b) When Owner not Present. (1) When the police department impounds and removes a motor vehicle pursuant to section 14-302(a) and the owner of the motor vehicle is not present at the time of the impoundment, the police department shall, if such motor vehicle has displayed thereon a registration plate issued by the division of vehicles and has been registered with said division, mail a notice by certified mail to the registered owner thereof, addressed to the address as shown

on the certificate of registration, and to the lienholder, if any, of record in the county in which the title shows the owner resides, if registered in this state. The notice shall be in the form prescribed by the police department containing the same information as required by section 14-304(a). The police department shall use reasonable diligence in determining the title owner, or if from a non-title state, the registered owner, of the vehicle, and shall inquire by mail of the office of the register of deeds of the county in which the title shows the owner resides, if registered in this state, as to whether there are any lienholders of record. If the owner cannot be served by certified mail at the address on the motor vehicle registration and there is no other known address of the owner, the owner shall be deemed to be a resident of the state whose whereabouts are unknown and service shall be made on the Secretary of State as provided in K.S.A. 8-401.

If the owner does not reside in the state, as appears from the motor vehicle registration and the owner cannot be served by certified mail at the address on the motor vehicle registration and there is no other known address of the owner, the owner shall be deemed a nonresident of the state and service shall be made on the Secretary of State as provided in K.S.A. 8-401.

(c) Failure or Refusal to Sign Notice. If any person required by this section to sign a notice of impoundment willfully fails or refuses to do so, or if such person cannot be found, the police department shall note this fact on the face of the notice, which shall constitute prima facie evidence of delivery or service of notice as required by this section.

(Code 1997)

14-305.

IMPOUNDMENT AFTER REQUEST TO LEAVE MOTOR VEHICLE. In all cases wherein the owner or operator of a motor vehicle which is on a public street has requested that the motor vehicle be left unattended at that location, in lieu of impoundment of the motor vehicle pursuant to section 14-302, the police department may honor said request for a period of time not exceeding 24 hours, after which time the motor vehicle shall either be removed from the location by the owner or operator or be impounded by the police department pursuant to section 14-304. The police department shall be immune from liability for any damage, loss or destruction of the motor vehicle occasioned by its being left unattended pursuant to the request of the owner or operator thereof, in lieu of impoundment. Nothing in this section shall be construed to limit the authority of the police department to order the removal of a motor vehicle by its owner or operator or to impound a motor vehicle pursuant to section 14-304 at any time whenever in his or her judgment the presence of the unattended motor vehicle constitutes a danger to the public safety. (Code 1997)

14-306.

RELEASE OF MOTOR VEHICLE FROM IMPOUNDMENT. (a) Generally. Unless the vehicle is impounded pursuant to section 14-302(b) herein, the owner of an impounded motor vehicle may secure the release of the motor vehicle from impoundment upon requesting such release and presenting proof of ownership satisfactory to the custodian of the place where the motor vehicle is stored. If the custodian is satisfied that the person making the request is the owner or his or her authorized agent, he or she shall release the motor vehicle to the owner or his or her agent. Nothing in the preceding sentence shall preclude the owner of the impounded motor vehicle or his or her agent from paying any towing and storage charges that may be assessed against the motor vehicle, but neither the police department nor the custodian of the storage space may require payment of any towing or storage charges as a condition precedent to such release. At the same time as the owner or his or her agent requests release of the impounded motor vehicle, and if such request is made with 40 days after the owner receives a copy of the notice of impoundment, the police department shall provide him or her an opportunity to make a request for a hearing on the propriety of the impoundment and on the amount and his or her liability for the towing and storage charges occasioned by the impoundment; provided, that if the

owner or his or her agent requests release of the impounded motor vehicle more than 40 days after the owner receives a copy of the notice of impoundment, no hearing may be requested on the impoundment or on the towing and storage charges and the owner shall be conclusively presumed to have consented to the impoundment and to the amount of and his or her liability for the towing and storage charges.

(b) Security for Payment of Charges. If the ownership of the impounded motor vehicle is evidenced by a title certificate issued by the Kansas Department of Highway Safety and Motor Vehicles, the owner or his or her agent may secure the release of the motor vehicle from impoundment without the payment of any towing or storage charges or the deposit of any security for the payment thereof. If the ownership of the impounded motor vehicle is evidenced by a foreign title instrument, or if the jurisdiction in which title is recorded is not evidenced from the document establishing ownership, the owner or his or her agent, before the custodian of the place where the motor vehicle is stored authorizes release of the motor vehicle from impoundment, shall deposit with the custodian cash in the amount of the towing and storage charges to the date of the request. If the owner or his or her agent refuses to provide the cash deposit, the custodian shall not authorize release of the impounded motor vehicle but if the request is timely made, a date shall be set for the hearing on the impoundment and charges.

(Code 1997)

14-307.

HEARING. If the owner of an impounded motor vehicle or his or her agent timely requests the release of the motor vehicle from impoundment and a hearing on the impoundment and charges, as provided in section 14-306, a date shall be set, not more than five days after the date of request, for the hearing. The city attorney shall provide a hearing examiner to conduct the hearings required by this section. At the hearing, the owner, his or her agent, or his or her attorney shall be afforded an opportunity to present, by oral testimony or documentary evidence, his or her objections to (a) the impoundment of the motor vehicle and (b) (1) the amount of the towing and storage charges and (2) his or her liability for the payment thereof. If the owner or his or her agent requested the hearing more than five days but not more than 40 days after the owner received a copy of the notice of impoundment, the owner, his or her agent or his or her attorney shall be required at the hearing, as a condition precedent to the presentation of any objections by the owner, to show good cause for the delay in making the request more than five days after the owner received a copy of the notice of impoundment: if good cause cannot be shown, the hearing officer shall dismiss the hearing and make the finding stated in subsection (b) below; otherwise, the hearing examiner shall proceed to hear the owner's objections. At the conclusion of the hearing on the owners objections, the hearing examiner shall render his or her decision if the hearing examiner:

(a) Finds that the impoundment was improper, he or she shall:

(1) Find that the owner is not liable for any towing or storage charges occasioned by the impoundment and

(2) Determine whether and to what extent the city shall be the expense of the towing and storage charges; or

(b) Finds that the impoundment was proper, he or she shall establish: -

(1) The amount of the towing and storage charges to be assessed against the impounded motor vehicle and

(2) The extent of the liability of the owner for payment of the towing and storage charges so established. The decision of the hearing examiner shall be final, and a copy of the decision shall be furnished to the owner of the impounded motor vehicle, to the custodian of the place where the motor vehicle is stored and to the city attorney.

In the event that the impoundment was pursuant to K.S.A. 8-1102(b), the owner or occupant of the real property upon which the abandoned vehicle was located shall not be assessed the costs of towing and storage of the vehicle. Further, nothing within this article shall be construed to modify or effect the validity of the possessory lien of

the person removing such vehicle from the real property established by K.S.A. 8-1102(b).
(Code 1997)

14-308. **CHARGES CONSTITUTE A LIEN.** The towing and storage charges occasioned by the impoundment of a motor vehicle pursuant to section 14-302 shall be and constitute a lien upon the impounded motor vehicle, except as provided in this section. If the hearing examiner finds pursuant to section 14-307 that the impoundment was improper and if he or she determines that the city shall bear part or all of the towing and storage charges, the lien created by this section shall be discharged. If the hearing examiner finds pursuant to section 14-306 that the impoundment was proper but that the towing and storage charges should be in an amount less than the amount of the lien, the lien created by this section shall be discharged to the extent that it exceeds the amount established by the hearing examiner. The holder of a lien created by this section may perfect such lien in any manner provided by law, but he or she may not retain possession of the motor vehicle when it has been released pursuant to section 14-306(a). In the event that the impounded motor vehicle is released from impoundment and the owner or his or her agent has provided security for payment of charges as required by section 14-306(b), the lien created by this section shall also be a lien against the security so provided, subject to being wholly or partially discharged as provided in this section.
(Code 1997)

14-309. **SATISFACTION OF LIEN; NOTICE OF PUBLIC SALE.** The holder of a lien against a motor vehicle created by section 14-308, to the extent that such lien has not been discharged as provided in section 14-308 or otherwise satisfied, may enforce such lien in any manner provided by law after 60 days from the date the motor vehicle is impounded by the police department. If the owner of the motor vehicle or his or her agent has provided security for the payment of the lien as provided in section 14-306(b), the lien shall first be satisfied out of the security so provided and, if any portion of the lien remains unsatisfied and undischarged, may then be enforced in any manner provided bylaw. If the motor vehicle against which the lien is created pursuant to section 14-308 is still under impoundment 60 days from the date it is impounded by the police department and the owner has not requested release of the motor vehicle from impoundment nor paid the towing and storage charges that are the basis for the lien, the motor vehicle shall be sold at public sale to the highest and best bidder for cash to satisfy the lien. Notice of the sale shall be given in accordance with K.S.A. 8-1102. Publication, required by K.S.A. 8-1102, may be made before the termination of the 60 day period for a sale thereafter.
(Code 1997)

14-310. **REDEMPTION.** If the city is to conduct the sale:
(a) Any holder of a recorded lien or retained title on a motor vehicle to be sold by the city under the provisions of section 14-309 may claim and take possession thereof, upon payment of accrued charges and estimated costs of publication of the notice of sale to the police department and the deposit with the police department of sufficient assurance by surety bond or otherwise, approved by the city attorney, that the motor vehicle will be forthcoming for public sale thereof or upon claim of the rightful owner prior to the sale. The police department shall, within three days, make a report to the city treasurer and deliver the charges and costs so paid to the city treasurer, taking a receipt therefor and filing it, together with a duplicate copy of the report to the city treasurer, with the records in his or her office. The funds shall be held in a trust account until final disposition of the motor vehicle. Not less than five days before the date for sale of the motor vehicle, the police department shall notify the lienholder or retained titleholder of the time and place for the sale, and the lienholder or retained titleholder shall deliver such motor vehicle to the police department at or before 12:00

noon of the day before the sale. At the sale the amount paid shall be credited on the bid of the lienholder or retained titleholder. If the lienholder or retained titleholder is the successful bidder for the motor vehicle, the police department shall report this fact to the city treasurer and then the funds previously paid by the lienholder or retained titleholder shall be relieved of the trust previously impressed and become the same as other funds received by the city for storage and costs of impounded motor vehicles. If the motor vehicle is sold for a higher bid to any person other than the lienholder or retained titleholder, the police department shall report this fact to the city treasurer and the lienholder or retained titleholder shall be refunded the amount previously paid by him out of the trust account.

(b) And if the rightful owner of the motor vehicle claims the same before the sale by payment of the accrued charges, the police department shall immediately notify the lienholder or retained titleholder in possession of the motor vehicle and he or she shall return the same to the police department within 12 hours. The police department shall report this redemption by the rightful owner to the city treasurer and the lienholder or retained titleholder shall be refunded the amount previously paid by him or her out of the trust account.

(Code 1997)

14-311. SALE PROCEEDS. The proceeds of a public sale held pursuant to section 14-308 whether such sale was conducted by the city or by any other person, after payment of the towing and storage charges and costs and expenses incident to the sale, shall be deposited with the city treasurer, if the owner of the motor vehicle is absent from the sale, for credit to the trust account. The funds deposited in the trust account pursuant to this section shall remain in the account subject to the order of the person legally entitled thereto, but if no claim is made for these funds within a period of one year after the sale, the funds shall become the property of the city, be released from the trust account and be paid into the general fund as miscellaneous revenues.

(Code 1997)

14-312. STATUTORY PROCEDURES. Nothing in this article shall be construed to augment, diminish, supersede or otherwise interfere with any statutory procedure established by the legislature for the collection of unpaid towing and storage charges. The procedures in this article are supplementary and cumulative to any statutory procedures.

(Code 1997)

14-313. IMPLEMENTATION OF ARTICLE. The police department and city treasurer are authorized to make rules for the implementation and administration of this article.

(Code 1997)

14-314. REIMBURSEMENT FOR DISCHARGED LIENS. If a lien created by section 14-308 and held by a private wrecker or towing firm is discharged by section 14-308 pursuant to a determination by a hearing examiner that an impoundment was improper and that the city shall bear part or all of the towing and storage charges, the city shall pay to the firm the amount determined by the hearing examiner. No payment shall be made until it is authorized by the city attorney.

(Code 1997)

ARTICLE 4. HAZARDOUS MATERIALS

- 14-401. HAZARDOUS MATERIAL DEFINED. As used in this article, the term hazardous material shall mean any compressed gas, explosive, flammable liquid, flammable solid, oxidizer, poison, radioactive material or any substance that due to its nature may cause death, disability or injury upon contact therewith.
(Code 1997)
- 14-402. SAME; EXCEPTIONS. The provisions of this article shall not apply to any container which shall have a capacity of 150 gallons or less which shall be used for the purpose of supplying fuel for the vehicle on which it is mounted. These provisions shall also not apply to vehicles, trailers, containers or tanks containing anhydrous ammonia or other material primarily used by farmers for fertilizer purposes when such vehicles, trailers, containers or tanks are parked or housed upon property designated for the placement of such vehicle, trailer, container or tank by any farmers cooperative, elevator company or farm supply store located within the city limits.
(Code 1997)
- 14-403. TRANSPORTATION OF HAZARDOUS MATERIALS. Except as provided in section 14-404 it shall be unlawful for any person, firm, corporation or other entity to transport any hazardous material upon any street, avenue, highway, road, alley or any other public right-of-way in the city.
(Code 1997)
- 14-404. HAZARDOUS MATERIALS ROUTES. The provisions of section 14-403 shall apply to all streets, avenues, highways, roadways, alleys or other public right-of-ways within the city except those specified within this section where transportation of hazardous materials shall be allowed. Transportation of hazardous materials shall be allowed upon the following streets, avenues, highways or roadways:
(a) Main Street
(b) Santa Fe
(c) County Road
(Code 1997)
- 14-405. PARKING OF VEHICLES OR TRAILERS CARRYING HAZARDOUS MATERIALS.
(a) Except as provided in subsections (b) and (c), it shall be unlawful for any person, firm, corporation or other entity to park any vehicle, trailer or semitrailer carrying any hazardous material within the city.
(b) Subsection (a) shall not apply to vehicles, trailers or semi-trailers parked for continuous periods of time not to exceed one hour where such vehicles, trailers or semi-trailers are parked along those routes specified in section 14-404 of this code.
(Code 1997)
- 14-406. REMOVAL OF ILLEGALLY PARKED TRAILERS. If any vehicle, trailer or a semi-trailer is found parked in violation of the provisions of this article, the fire chief or assistant chief or any law enforcement officer may require the owner, operator

or lessee of the trailer to move it within two hours. If such removal is not accomplished on the order of any such officer, it may be accomplished by any such officer, by any reasonable means, if the continued presence of the trailer or semitrailer at its parked location constitutes, adds to or prevents correction of a situation threatening imminent injury or damage to persons or property.
(Code 1997)

ARTICLE 5. OPERATION OF WORK-SITE UTILITY VEHICLES AND ALL TERRAIN VEHICLES

- 14-501. OPERATION OF WORK-SITE UTILITY VEHICLES; PENALTY. (a) Work-site utility vehicles may be operated upon the public highways, streets, roads and alleys within the corporate limits of the city.
 (b) Work-site utility vehicle means any motor vehicle which is not less than 48 inches in width, has an overall length, including the bumper, of not more than 135 inches, has an unladen weight, including fuel and fluids, of more than 800 pounds and is equipped with four or more low pressure tires, a steering wheel and bench or bucket type seating allowing at least two people to sit side-by-side, and may be equipped with a bed or cargo box for hauling materials.
 (c) No work-site utility vehicle shall be operated on any public highway, street, road or alley unless such vehicle shall comply with the equipment requirements under the provisions of article 17, chapter 8 of the Kansas Statutes Annotated.
 (d) Every person operating a work-site utility vehicle on the public highways, streets, roads and alleys of the city shall be subject to all of the duties applicable to a driver of a vehicle imposed by law.
 (e) A violation of this section shall be deemed an ordinance traffic infraction. Upon an entry of a plea of guilty or no contest or upon being convicted of such violation, the penalty imposed shall be in accordance with Section 201, 2007 Standard Traffic Ordinance, and amendments thereto, or such other similar provision as the city may then have in effect.
(Ord. 558, Sec. 1)
- 14-502. SAME: VALID DRIVER'S LICENSE REQUIRED; PENALTY. No person shall operate a work-site utility vehicle on any public highway, street, road or alley within the corporate limits of the city unless such person has a valid driver's license. Violation of this section is punishable by a fine of not more than \$1,000.00 or by imprisonment for not more than six months or by both such fine and imprisonment.
(Ord. 558, Sec. 2)
- 14-503. OPERATION OF ALL-TERRAIN VEHICLES. (a) All-terrain vehicles may be operated upon the public highways, streets, roads and alleys within the corporate limits of the city.
 (b) All-terrain vehicle means any motorized non-highway vehicle 48 inches or less in width, having a dry weight of 1,000 pounds or less, traveling on three or more low pressure tires, and having a seat to be straddled by the operator. As used in this subsection, low pressure tire means any pneumatic tire six inches or more in width, designed for use on wheels with rim diameter of 12 inches or less, and utilizing an operating pressure of ten pounds per square inch or less as recommended by the vehicle manufacturer.

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

(d) Every person operating an all-terrain vehicle on the public highways, streets, roads and alleys of the city shall be subject to all of the duties applicable to a driver of a vehicle imposed by law.

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

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

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

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

(Ord. 558, Sec. 3)

14-504.

SAME; ROADWAYS LANED FOR TRAFFIC. (a) All all-terrain vehicles are entitled to full use of a lane, and no motor vehicle shall be driven in such a manner as to deprive any all-terrain vehicle of the full use of a lane. This subsection shall not apply to all-terrain vehicles operated two abreast in a single lane.

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

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

(d) All-terrain vehicles shall not be operated more than two abreast in a single lane.

(e) Subsections (b) and (c) shall not apply to police officers in the performance of their official duties.

(Ord. 558, Sec. 4)

14-505.

SAME; CLINGING TO OTHER VEHICLES PROHIBITED. No person riding upon an all-terrain vehicle shall attach himself, herself or the all-terrain vehicle to any other vehicle on a roadway.

(Ord. 558, Sec. 5)

14-506.

SAME; EQUIPMENT ON ALL-TERRAIN VEHICLES FOR PASSENGERS. Any all-terrain vehicle carrying a passenger shall be equipped with a seat and footrests for such passenger.

(Ord. 558, Sec. 6)

14-507.

OPERATION OF ALL-TERRAIN VEHICLES; EQUIPMENT REQUIRED FOR OPERATORS AND RIDERS. (a) No person under the age of 18 years shall operate or ride upon an all-terrain vehicle unless wearing a helmet which complies with minimum guidelines established by the national highway traffic safety administration

pursuant to the national traffic and motor vehicle safety act of 1966 for helmets designed for use by motorcyclists and other motor vehicle users.

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

(Ord. 558, Sec. 7)

14-508. SAME; PENALTIES. A violation of any provision in sections 14-503 through 14-507 shall be deemed an ordinance traffic infraction. Upon an entry of a plea of guilty or no contest or upon being convicted of such violation, the penalty imposed shall be in accordance with Section 201, 2007 Standard Traffic Ordinance, as amended, or such other similar provision as the city may then have in effect.

(Ord. 558, Sec. 8)

14-509. SAME: VALID DRIVER'S LICENSE REQUIRED; PENALTY. No person shall operate an all-terrain vehicle on any public highway, street, road or alley within the corporate limits of the city unless such person has a valid driver's license. Violation of this section is punishable by a fine of not more than \$1,000.00 or by imprisonment for not more than six months or by both such fine and imprisonment.

(Ord. 558, Sec. 9)

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 purposes of this article utility services shall include water, electrical, sewer, and the collection or disposal of refuse, trash, garbage and other solid waste and other utility services provided by the city.
(Ord. 585, Sec. 1)
- 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 sections 15-103 and 15-104.
(Ord. 585, Sec. 2)
- 15-103. NOTICE; HEARING. (a) If a utility bill has not been paid in full on or before the due date as provided in this article, a delinquency and termination notice shall be issued by the city clerk within five days after the delinquency occurs and mailed to the customer at his or her last known address. A copy shall also 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 which includes any delinquency charges;
 - (2) Notice that service will be terminated if the amount due is not paid within ten days from the date of the notice unless the date on the notice to pay the charges due shall be on a Saturday, Sunday or legal holiday, in which event such notice will give the consumer until the close of the next business day in which to pay the charges;
 - (3) Notice that the customer has the right to a hearing before the governing body or such other hearing officer as may be appointed with the consent of the governing body;
 - (4) Notice that the request for a hearing must be in writing and filed with the city clerk no later than three days to the date for termination of service.
 - (c) Upon receipt of a request for hearing, the city clerk shall advise the customer of the date, time and place of the hearing which shall be held at the next scheduled meeting of the governing body or other day as designated by the governing body.
(Ord. 585, Sec. 3)
- 15-104. SAME; FINDING. Following the hearing, if the governing body shall find that service should not be terminated, then notice of such finding shall be presented to the city clerk. If the governing body finds that service should be terminated, an order shall be issued terminating service five days after the date of the order. The customer shall be notified either in person or by mailing a letter to his or her last known address.

However, if the order is made at the hearing in the presence of the customer, then no further notice need be given. The governing body has a right, for good cause, to grant an extension, for the termination of such service.
(Ord. 585, Sec. 4)

15-105.

UTILITY CONNECTIONS; TRANSFERS; LANDLORD TENANT TRANSFERS.

(a) A non-refundable connection fee of \$150.00 total shall be charged at the time a customer requests and is granted water, electric, sewer, solid waste, or any combination thereof. The full amount of the connection fee shall be paid to the city clerk before any service connection shall be made. If a customer requests a temporary suspension to any utility, a \$25.00 fee will be required to reinstate the utility. No connection or reinstatement shall be made for any customer who owes an unpaid balance to the city for prior or existing service at any location.

(b) Should an existing customer move to another address in the city's service area, utilities may be established at the new address without paying the full connection fee provided the following are met:

(1) The customer cannot have been disconnected due to failure to pay during the past 60 consecutive months;

(2) The customer must have a good payment record which is defined as no more than one late payment in a 24 month period;

(c) A transfer fee of \$25.00 will be required to transfer the utilities.

(d) Connection fees cannot be transferred from one customer to another.

(e) The city agrees to allow a transfer of service, without interruption, from the name of the tenant to the landlord's name when the landlord notifies the city that a tenant has moved and pays a transfer fee of \$25.00. The city further agrees to allow a transfer of service, without interruption, from the landlord's name to the tenant's name when the tenant makes application for service and pays the \$25.00 transfer fee. Both of these options are only available when the person receiving the transfer of service is in good payment standing with the city. This is defined as no late payments on any account during the past 24 consecutive months, no disconnections due to failure to pay within the past 60 consecutive months and no outstanding debts of any kind or nature owed to the city. If the person is not in good payment standing with the city, the person must apply for a full connection fee.

(Ord. 585, Sec. 5)

15-106.

DELINQUENT ACCOUNTS; REFUSAL OF SERVICE; TERMINATION OF SERVICE; LIEN AGAINST PROPERTY. (a) In the event that any person, except the United States or the state of Kansas, shall fail to pay the fees or charges for such utility services(s), utility service shall be terminated as provided in sections 15-102, 15-103 and 15-104. The governing body may refuse the delivery of utility service(s), as permitted by law, until such time as the fees and charges are paid in full.

(b) In the event that any person, except the United States or the state of Kansas, residing, occupying, using or operating on property to which utility service(s) furnished by the city is not paid, the unpaid fees or charges shall constitute a lien upon the property to which the utilities are furnished. The amount of the unpaid fees or charges shall be certified by the governing body to the county clerk of the county in which the property is located, to be placed upon the tax roll for collection, subject to the same penalties and collected in the same manner as other taxes are collected by law.

(c) The lien, described in subsection (b) of this section, shall not attach to property for unpaid utility fees or charges when:

(1) The utility service(s) have been contracted for by a tenant and not by the landlord or the owner of the property, or the agent of such person, to which the utility service is provided; or,

(2) The utility services are owed by the United States or the state of Kansas.

(d) If at the time of application for utility service the applicant has an outstanding balance or unpaid fees or charges for utility services provided by the city, the application shall not be accepted until all fees or charges are paid in full.

(Ord. 585, Sec. 6)

15-107.

LANDLORD LIABILITY. (a) Owners of premises served by utility service under this article shall be liable for payment of the costs of any utility service account delinquency arising from service provided to such premises, regardless of whether the utility service was furnished upon the application and request of the owner or lessee of the premises. This provision shall also apply when the premises are leased by or through an agent or other representative of the owner.

(b) In the event that a delinquency arises involving leased premises, in addition to the tenant, the owner or owner's agent shall be notified in writing of the delinquency of the lessee within ten days after the billing to the lessee becomes delinquent. Notice shall be sufficient if mailed to the last known address of the owner or owner's agent known to city personnel responsible for said mailing, after reasonable inquiry.

(c) If utility service is furnished to a leased premises on the application or request of the lessor of the premises, then all billings for utilities furnished to such leased premises shall be made directly to the lessor, and the lessor shall be fully liable for the cost of service furnished.

(d) The city may collect the amount of the unpaid bill for utility services by any lawful means. Provided, however, that in no event may the city place a lien, as provided in subsection (b) of section 15-106, on real estate of the lessor.

(Ord. 585, Sec. 7)

15-108.

DUE DATE; PENALTY; RECONNECT FEES. All utility charges are due and payable on the tenth day of each month at the office of the city clerk. A ten percent penalty shall be charged and assessed on all bills not paid in full by the tenth of each month. Prior to reconnecting a utility service that has been disconnected following a delinquency, the customer shall pay to the city the entire balance due and owed to the city at the time of reconnection. The customer shall also pay a charge of \$50.00 for reconnection of services.

(Ord. 585, Sec. 8)

15-109.

PETTY CASH FUND. A petty cash fund in the amount of \$100.00 is established for the use of the city utilities department, for the purpose of paying postage, freight, temporary labor, and other emergency expenses.

(Ord. 585, Sec. 9)

15-110.

SAME; DEPOSITS. The petty cash fund shall be deposited in the regular depository bank of the city and paid out on the order of the city clerk by check which shall state clearly the purpose for which issued.

(Ord. 585, Sec. 10)

15-111.

SAME; VOUCHERS. Whenever the petty cash fund becomes low or depleted, the city clerk shall prepare vouchers covering expenses as have been paid from the petty cash fund and shall submit such vouchers together with the paid checks to the governing body for review and allowance of the amounts from the regular funds of the utilities. Warrants issued therefor shall be payable to the petty cash fund and shall be deposited therein to restore said petty cash fund to its original amount.
(Ord. 585, Sec. 11)

ARTICLE 2. WATER

- 15-201. SUPERINTENDENT OF WATER AND SEWAGE. The general management, care, control and supervision of the city water system shall be in the superintendent of water and sewage, who shall be appointed by the mayor with the consent of the governing body.
(Code 1997)
- 15-202. REGULATIONS. The furnishing of water to customers by the city through its waterworks system shall be governed by the regulations set out in this article. (Code 1997)
- 15-203. SERVICE NOT GUARANTEED. The city does not guarantee the delivery of water through any of its mains and connecting services at any time except only when its mains, pumping machinery, power service connection are in good working order, and the supply of water is sufficient for the usual demand of its consumers. (Code 1997)
- 15-204. SERVICE CONNECTIONS REQUIRED. (a) The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purpose, situated within the city abutting on any street, alley, or right-of-way in which there is now located or may in the future be located 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 1997)
- 15-205. APPLICATION FOR SERVICE. (a) Any person, firm or corporation desiring a connection with the municipal water system shall apply in writing to the city clerk, on a form furnished by the city for that purpose, for a permit to make the connection.
(b) The application shall:
(1) Contain an exact description including street address of the property to be served;
(2) State the size of tap required;
(3) State the size and kind of service pipe to be used;
(4) State the full name of the owner of the premises to be served;
(5) State the purpose for which the water is to be used;
(6) State any other pertinent information required by the city clerk;
(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 15-207.
(Code 1997)
- 15-206. CITY TO MAKE CONNECTIONS. All taps shall be given, street excavations made, corporation cocks inserted, pipes installed from main to curb, and the curb

cock installed in a meter box to which the service pipe is to be connected by city employees only.
(Code 1997)

- 15-207. CONNECTION FEES. The fees for connection to the city waterworks system shall be as follows:
(a) For connecting water main with three-fourths inch tap, three- fourths inch service line and installing three-fourths inch meter - \$200.00 plus tax;
(b) For connecting water main with larger than a three-fourths inch tap, service line or meter - \$200.00 plus any additional costs incurred by the city.
(Ord. 335, Sec. 2; Code 1997)
- 15-208. CURB COCKS. There shall be a curb cock in every service line attached to the city main, the same to be placed within the meter box. Curb cocks shall be supplied with strong and suitable "T" handles. (Code 1997)
- 15-209. 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 1997)
- 15-210. UNAUTHORIZED SERVICE. It shall be unlawful for any person, firm, or corporation, other than duly authorized city officials or employees to turn water on or off at the water meter or curb cock shut off, with a key or in any other manner, without first obtaining written permission from the mayor or the governing body. (Code 1997)
- 15-211. METERS. (a) All water furnished to customers shall be metered.
(b) Meters shall be located between the sidewalk or property line and curbing when the main is in the street, and on private property within three feet of the alley line when the main is in the alley. In the business district the meters may be installed in the basement at a location specified by the city.
(c) The city's responsibility stops at the property line.
(Code 1997)
- 15-212. SAME; TESTING. Meters shall be tested before being set and at any other time thereafter when they appear to be measuring incorrectly. If a test is requested by the customer and the meter is found to be accurate within two percent, the meter will be deemed correct and a charge of \$10.00 will be made to the customer.
(Code 1997)
- 15-213. TAMPERING WITH METER. It shall be unlawful for any person to break the seal of any meter, to alter the register or mechanism of any meter, or to make any outlet or connection in any manner so that water supplied by the city may be used or wasted without being metered. It shall be unlawful for any person except an authorized employee of the water department to turn any curb cock on or off.
(Code 1997)

- 15-214. LEAKS PROHIBITED; PENALTY. No allowances shall be made for water used or lost through leaks, carelessness, neglect or otherwise after the same has pass 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 1997)
- 15-215. DISCONNECTION, RECONNECTION CHARGE. The governing body shall establish, by ordinance, a water service disconnection and reconnection charge. Whenever the city receives a request from a customer for termination of water service the disconnection charge shall be added to the customer's final bill. Any service disconnected for nonpayment of delinquent bill shall be reconnected only upon payment of the delinquent bill, interest penalty thereon, and the reconnection charge. (Code 1997)
- 15-216. UTILITY DEPOSIT. At the time of making application for water service, the property owner or customer shall make a cash deposit in the amount and manner specified in section 15-105 to secure payment of accrued bills or bills due on discontinuance of service. (Code 1997)
- 15-217. INTERRUPT SERVICE. The city reserves the right to interrupt water service for the purpose of making repairs or extensions to water lines or equipment. (Code 1997)
- 15-218. PROHIBITED ACTS. It shall be a violation of this article for any unauthorized person to:
- (a) Perform any work upon the pipes or appurtenances of the city's waterworks system beyond a private property line unless such person is employed by the city;
 - (b) Make any connections with any extension of the supply pipes of any consumer without written permission to do so having been first obtained from the governing body;
 - (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 1997)
- 15-219. 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 1997)
- 15-220. RIGHT OF ACCESS. Authorized employees of the city may enter upon any premises at reasonable hours for the purpose of reading the meter or servicing or inspecting meters or water lines. (Code 1997)

- 15-221. **RATES.** The rate to be charged users of water from the municipal water system of the city shall be as follows:
 (a) A minimum charge of \$25.00 shall be made each month which will entitle the user to 400 cubic feet (3,000) gallons of water each month. The excess over 400 cubic feet used shall be at \$1.00 per 100 cubic feet (750) gallons. Meters will be read each month and charged on statements rendered the first day of the month. Meters will be estimated if necessary during the winter months.
 (b) The rate to be charged users outside the city limits of the city shall be subject to the ten percent now in effect by previous ordinances.
 (c) The rate to be charged to users of water from the city water tower shall be as follows: \$1.00 per 100 gallons of water.
(Ord. 589, Sec. 1)
- 15-222. **PAYMENT OF BILLS.** All water bills for the previous month's water service shall be paid on or before the 10th day of the month following the service. For any billing not paid when due a late charge of 10 percent will be added to the bill. (Code 1997)
- 15-223. **DELINQUENT ACCOUNTS; NOTICE; HEARING; FINDING; LIABILITY.** Water service shall be terminated for nonpayment of service fees or charges as provided in sections 15-102:104.
(Code 1997)
- 15-224. **USE DURING FIRE.** No person owning or occupying premises connected to the municipal water system shall use or allow to be used during a fire any water from the water system except for the purpose of extinguishing the fire. Upon the sounding of a fire alarm it shall be the duty of every such person to see that all water services are tightly closed and that no water is used except in extraordinary cases of emergency during the fire.
(Code 1997)
- 15-225. **CROSS-CONNECTIONS PROHIBITED.** No person shall establish or permit to be established or maintain or permit to be maintained, any cross connection whereby a private, auxiliary, or emergency water supply other than the regular public water supply of the city may enter the supply and distributing system of the city unless specifically approved by the Kansas Department of Health and Environment and the governing body.
(Ord. 379, Sec. 1; Code 1997)
- 15-226. **SAME; PROTECTIVE BACKFLOW DEVICES REQUIRED.** Approved devices to protect against backflow or backsiphonage shall be installed at all fixtures and equipment where backflow and/or backsiphonage may occur and where there is a hazard to the potable water supply in that polluted water or other contaminating materials may enter into the public water supply. Any situation in which a heavy withdrawal of water, such as a sudden break in the main or water being used from a fire hydrant, may cause a negative pressure to develop which could lead to backsiphonage of polluted water into the system shall be improper and must be protected by approved backflow preventive valves and systems as determined by the superintendent.
(Ord. 379, Sec. 2; Code 1997)

15-227. SAME; INSPECTION. The city utility superintendent or other designee of the governing body shall have the right of entry into any building or premises in the city as frequently as necessary in his or her judgment in order to ensure that plumbing has been installed in accordance with the laws of the city so as to prevent the possibility of pollution of the water supply of the city.
(Ord. 379, Sec. 3; Code 1997)

15-228. SAME; PROTECTION FROM CONTAMINANTS. Pursuant to the city's constitutional home rule authority and K.S.A. 65-163a, the city by its utility superintendent may refuse to deliver water through pipes and mains to any premises where a condition exists which might lead to the contamination of the public water supply system and it may continue to refuse the delivery of water to the premises until that condition is remedied. In addition, the city utility superintendent may terminate water service to any property where the cross connections or backsiphonage condition creates, in the judgment of the superintendent, an emergency danger of contamination to the public water supply.
(Ord. 379, Sec. 4; Code 1997)

ARTICLE 3. ELECTRICITY

- 15-301. RATES. (a) Electric rates beginning with the August 2012 billing to customers shall be as follows: The first ten KWH used is \$8.00 and shall be the minimum charge. The following KWH shall be \$.03 each above what Kansas Power Pool charges the city a KWH.
- (b) Small power rates shall have a flat three phase meter charge of \$15.00 per month. In addition, each KWH of usage shall be \$.03½ above what Kansas Power Pool charges the city a KWH.
- (c) An electric rate of one and one-half cent less per kilowatt shall be charged if 80 percent of their load is from food refrigeration.
(Ord. 393, Secs. 1:2; Ord. 397, Sec. 1; Ord. 580, Secs. 1:2)
- 15-302. ELECTRICAL HOOK-UPS. The user shall make application to the city clerk's office with payment as follows: \$25.00 for meter if connections are already on the building. \$70.00 will be charged for overhead wire from the pole to the building connections if needed, making a total of \$95.00.
- (a) If there are no connections on the building the applicant must make payment as follows: \$25.00 for meter, \$45.00 for meter look setting at the pole and \$70.00 for the overhead wire building making a total of \$140.00 for the complete setting.
- (b) If underground service is desired the cost will be \$25.00 for the meter, \$45.00 for the meter loop setting with 100 amp fuse breaker making a total of \$70.00 for meter setting and meter loop. All underground wire and trenching to be paid for by the user.
- (c) If trouble occurs in the underground service, the city will locate the fault and repair with all digging to the fault, backfilling or any other damage to the property to be paid for by the user.
- (d) There shall be made available to all users of general power a service commonly known as three phase power service. The user shall make application to the city clerk and pay \$140.00 for the starting of the meter setting. The user shall pay all additional costs above the \$140.00 paid to finish the complete three phase power service.
(Ord. 335, Sec. 1)

ARTICLE 4. SEWERS

15-401.

DEFINITIONS. Unless the context clearly indicates otherwise, the meaning of words and terms as 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 five feet outside the inner face 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) PH shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

(e) Individual Domestic means any single family residence, commercial business, office, institution, school, church or public entity having an individual direct or indirect connection to the wastewater facilities of the city and on individual city or private water service meter, or connection to any such water service.

(f) Industrial means any industrial business engaged in the manufacturing or processing of one or more products, and in which wastewaters are produced from such manufacturing or processing and said wastewaters are discharged directly or indirectly to the wastewater facilities of the city.

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

(h) Superintendent shall mean the superintendent of the city or his or her authorized deputy, agent or representative.

(i) 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.

(j) Sewer shall mean a pipe or conduit for carrying sewage.

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

(l) Combined Sewers shall mean sewers receiving both surface runoff and sewage, are not permitted.

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

(n) Storm Sewer or Storm Drain shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and polluted industrial wastes.

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

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

(q) User means any person as defined in section 1-102, including an institution, governmental agency or political subdivision producing wastewater requiring processing and treatment to remove pollutants and having premises connected to the wastewater facilities.

(r) Wastewater means sewage, the combination of liquids and water carried wastes from residences, commercial and industrial buildings, institutions, governmental agencies, together with any ground, surface or storm water that may be present.

(s) Normal wastewater. The strength of normal wastewater shall be considered within the following ranges:

(1) A five day biochemical oxygen demand of 300 milligrams per liter or less;

(2) A suspended solid concentration of 350 milligrams or less;

(3) Hydrogen ion concentration of 5.0 to 9.0.

(Code 1997)

15-402. SEWER CONNECTION REQUIRED. The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purpose, situated within the city and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the city, is hereby required at his or her expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this article, within 90 days after date of official notice to do so, provided that said public sewer is within 140 feet of the property line.
(Code 1997)

15-403. PERMIT; CONNECTION FEE. No person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the city.
(Code 1997)

15-404. APPLICATION. Any person desiring to make a connection to the city sewer system shall apply in writing to the city clerk who shall forward the application to the utility superintendent. The application shall contain:

- (a) The legal description of the property to be connected;
- (b) The name and address of the owner or owners of the property;
- (c) The kind of property to be connected (residential, commercial or industrial);
- (d) The point of proposed connection to the city sewer line.

(Code 1997)

15-405. COSTS. All costs and expense incident to the installation and connection of the building sewer shall be paid by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
(Code 1997)

15-406. SEWER CONNECTION. The connection of the building sewer into the public sewer shall be made at the "Y" branch if such branch is available at a suitable location. Where no properly located "Y" branch is available, the connection shall be made in the manner approved by the utility superintendent and at a location designated by the superintendent.
(Code 1997)

15-407. SEWER FOR EACH BUILDING. A separate and independent building sewer shall be provided for every building except where one building stands at the rear of another on an interior lot and no private sewer is available or can be feasibly constructed to the rear building. In such case, the building sewer from the front

building may be extended to the rear building and the whole considered as one building sewer.
(Code 1997)

- 15-408(1) SAME; SPECIFICATIONS. The building sewer shall be constructed of cast iron pipe, ASTM specifications A74-42, or approved equal; vitrified clay sewer pipe, ASTM specifications C13-44T, or approved equal; or an approved plastic pipe. Any plastic pipe to be installed on any building sewer shall not be approved by the city until the owner has furnished descriptive literature and typical sample section of the plastic pipe proposed for installation, to the city for inspection and review. All joints on all pipe installed shall be tight and waterproof. Any part of the building sewer that is located within 10 feet of a water service pipe or city water main shall be constructed of approved cast iron soil pipe with approved joints. No building sewer shall be installed within three feet of existing gas lines. If installed in filled or unstable ground, the building sewer shall be constructed of cast iron soil pipe, except that non-metallic material may be accepted if laid on a suitable concrete bed or cradle as approved by the city.
(Code 1997)
- 15-408(2) SAME. The size and slope of the building sewer to be installed shall be subject to the approval of the city inspector, but in no event shall the diameter of the pipe be less than four inches. The slope at which a six inch pipe is to be laid shall be not less than 1/8 inch per foot and for four inch pipe, not less than 1/4 inch per foot. Any grades for the pipe, which are proposed for installation at grades less than these specified, shall be approved by the city inspector prior to placement.
(Code 1997)
- 15-408(3) SAME. Whenever possible the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to or within three feet of any bearing wall, which might thereby be weakened. The depth shall be sufficient to afford protection from frost. The building sewer shall be laid at a uniform grade and in straight alignment insofar as possible. Changes in direction shall be made only with approved curved pipe and fittings, including cleanout fittings.
(Code 1997)
- 15-408(4) SAME. At buildings in which the building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer. The use of any pumping equipment for which cross-connections with a public water supply system are needed, is prohibited. The total costs of pumping equipment and pumping equipment operational costs shall be those of the owner.
(Code 1997)
- 15-408(5) SAME. No building sewer shall be laid across a cesspool, septic tank or vault until the cesspool, septic tank or vault has been well cleaned and filled with an approved earth or sand fill, then thoroughly tamped and water settled. Cast iron pipe may be used across cesspools or septic tanks, if proper bedding and support for the sewer pipe is acquired.
(Code 1997)
- 15-408(6) SAME. All excavation required for the installation of the building sewer shall be open trench work unless otherwise approved by the city. Pipe laying and backfill shall be performed in accordance with ASTM specifications C12-19, except that no backfill shall be placed until the work has been inspected and approved.
(Code 1997)

- 15-408(7) SAME. All joints in the building sewers shall be made watertight. If recommended by the city inspector, a water pressure test shall be made on the completed sewer to insure a compliance with this requirement, requiring that the building sewer withstand an internal water pressure of 5 psi., without leakage.
- Cast iron pipe with lead joints shall be firmly packed with oakum or hemp and filled with molten lead, Federal Specifications QQ-L-156, not less than one inch deep. Lead shall be run in one pour and caulked and packed tight. No paint, varnish or other coatings shall be permitted on the jointing material until after the joint has been tested and approved.
- All joints in vitrified clay pipe shall be the polyurethane-compression type joints, approved by the city inspector.
- Joints for all plastic pipe used in building sewers shall be the slip type joints or solvent weld type, approved by the city.
- Joints between any two different type of pipes shall be made with lead, asphaltic jointing materials or concrete, as approved by the city. All joints shall be watertight and constructed to insure minimum root penetration and to the satisfaction of the city.
(Code 1997)
- 15-409. SEWER EXCAVATIONS: DAMAGES. All excavations for buildings sewers shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, curb and gutters, sidewalks, parkways and other public property removed or damaged during the installation of the building sewer, shall be repaired or replaced in a manner acceptable to the city and at the total expense of the owner. It is further agreed that any parties involved in any excavating or installation work for sewer installations as above set out, will hold the city harmless from any and all damages to persons or property resulting from or growing out of any opening or excavation or any negligent act or from any operation made within the city.
(Code 1997)
- 15-410. FAILURE TO CONNECT. (a) If any person as defined in section 1-102 shall fail to connect any dwelling or building with the sewer system after being noticed, the city may cause such buildings to be connected with the sewer system as authorized by K.S.A. 12-631.
- (b) The cost and expense, including inspection fees, shall be assessed against the property. Until such assessments shall have been collected and paid to the city, the cost of making such connection may be paid from the general fund or through the issuance of no fund warrants.
(Code 1997)
- 15-411. PRIVY UNLAWFUL. It shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage except as provided in this article.
(Code 1997)
- 15-412. PRIVATE SEWER SYSTEM. Where a public sanitary sewer is not available under the provisions of section 15-402 the building sewer shall be connected to a private sewage disposal system complying with the provisions of sections 15-411 to 15-416. (Code 1997)
- 15-413. SAME; PERMIT. Before commencing construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the utility superintendent. The application shall be accompanied by any plans, specifications or other information deemed necessary by the utility superintendent. A permit and inspection fee of \$50 shall be paid to the city at the time the application is filed. (Code 1997)
- 15-414. SAME; INSPECTION. The utility superintendent or his or her authorized

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

(Code 1997)

- 15-415. SAME; DISCHARGE. (a) The type, capacities, location, and layout of the private sewage disposal system shall comply with all recommendations and requirements of the Water Pollution Control Section of the Kansas State Department of Health. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than one acre. No septic tank or cesspool shall be permitted to discharge to any public sewer or natural outlet.
(b) At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in section 15-402, a direct connection shall be made to the public sewer in compliance with this article, and any septic tank, cesspool, and similar private sewage disposal facilities shall be abandoned and filled with suitable and acceptable materials.
(Code 1997)
- 15-416. SAME; ADDITIONAL REQUIREMENTS. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the city or county health officer.
(Code 1997)
- 15-417. DISPOSAL OF SEWAGE. It shall be unlawful for any person to deposit or discharge from any source whatsoever any sewage or human excrement upon any public or private grounds within the city, or to permit the contents of any privy, vault or septic tank to be deposited or discharged upon the surface of any grounds. Any unauthorized or unapproved privy vault, septic tank or other means or places for the disposal of sewage, excrement and polluted water may be abated as a public nuisance upon the order of the city or county board of health in accordance with the laws of Kansas.
(K.S.A. 12-1617e; 12-1617g; Code 1997)
- 15-418. DAMAGE TO SEWERS. It shall be unlawful for any unauthorized person to maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any sewer, structure, appurtenance, or equipment which is part of the municipal sewer system.
(Code 1997)
- 15-419. NATURAL OUTLET. It shall be unlawful to discharge to any natural outlet within the city or in any area under the jurisdiction of the city any sanitary sewage, industrial wastes or other polluted waters except where suitable treatment has been provided in accordance with the provisions of this article.
(Code 1997)
- 15-420. STANDARDS. The size, slope, alignment, materials, excavation, placing of pipe, jointing, testing and backfilling shall all conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the city. (Code 1997)
- 15-421. OLD BUILDING SEWERS. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the utility superintendent, to meet all requirements of this article.
(Code 1997)
- 15-422. MUD, GREASE TRAPS. All garages, filling stations, milk plants or other

commercial or industrial plants connected to the public sewer shall construct and maintain proper and sufficient interceptors or traps to prevent the discharge of any sand, mud, sediment, litter, waste or any substance harmful to the effective operation and maintenance of the city sewer system, into the building sewer.
(Code 1997)

15-423. ROOF, FOUNDATION DRAINS. (a) It shall be unlawful to connect downspouts from any roof area, drains from any building foundation, paved areas, yards or open courts, or to discharge liquid wastes from any air conditioning unit or cooling device having a capacity in excess of one ton per hour or one horsepower into any city sanitary sewer.

(b) All discharges prohibited in subsection (a) may be discharged into the public gutter or storm drains or open drainage ditches provided such discharge does not create a nuisance. No such liquids may be discharged into any unpaved street or alley.
(Code 1997)

15-424. SAME; EXCEPTION. Discharges from air conditioning units in excess of one ton per hour or one horsepower may be permitted into a building sewer upon approval of the utility superintendent where there is a finding that such cooling water cannot be re-circulated and that such waste water does not overload the capacity of the sewer or interfere with the effective operation of the sewage disposal works of the city. (Code 1997)

15-425. PROHIBITED DISCHARGES. No person shall discharge any of the following waters or wastes to any public sewer:

(a) Liquid or vapor having a temperature higher than 150 degrees Fahrenheit;
(b) Water or waste which may contain more than 100 parts per million, by weight, of fat, oil or grease;

(c) Gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas;

(d) Garbage that has not been properly shredded;

(e) Ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure, or any other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works;

(f) Waters or wastes having a ph lower than 5.5 or higher than 9.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works;

(g) Waters or wastes containing a toxic poisonous substance in sufficient quantity to injury or interfere with any sewage treatment process, constitute a hazard to humans or animals, or create any hazard in the receiving waters of the sewage treatment plant;

(h) Water or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant;

(i) Noxious or malodorous gas or substance capable of creating a public nuisance;

(j) Storm water, surface water, ground water, roof runoff, subsurface drainage, including interior and exterior foundation drains, uncontaminated cooling water, or unpolluted industrial process waters.

(Ord. 325; Code 1997)

15-426. BILLS. (a) Bills shall be rendered monthly as provided in section 15-222 and shall be collected as a combined utility bill.

(b) Any person at the time of beginning or terminating service who receives

service for a period of less than 17 consecutive days shall be billed at no less than one-half of the regular minimum monthly rate. For service of 17 consecutive days or more the charge shall be not less than full regular minimum monthly rate.
(Code 1997)

15-427. DELINQUENT ACCOUNTS; LIEN AGAINST PROPERTY. (a) In the event any person, except the United States and the state of Kansas or any political subdivision thereof, shall fail to pay the user charges when due, water service shall be terminated as provided in sections 15-102:104.

(b) In lieu of terminating water service, the governing body may elect to assess such delinquent charges as a lien upon the real estate serviced as provided in section 15-106, and the city clerk shall certify such delinquent charges to the county clerk to be placed on the tax roll and collected in like manner as other taxes are collected.
(Code 1997)

15-428. SEWER SERVICE CHARGE. The service charge to be paid the city for the use of the sewage disposal system and sewage disposal plant for each month or fraction thereof shall be as follows:

(a) Family residences shall be \$18.00. The increase shall take effect on July 1, 2015.

(b) Churches, organization and business places shall be \$30.50. The increase shall take effect on July 1, 2015.

(c) Schools shall be \$140.00. The increase shall take effect on July 1, 2015.

(d) Multi-dwelling facilities shall be \$13.50 per unit. The increase shall take effect on July 1, 2015.

(Ord. 593, Sec. 1)

ARTICLE 5. SOLID WASTE

- 15-501. DEFINITIONS. Unless the context clearly indicates otherwise, the meaning of words and terms as used in this article shall be as follows:
- (a) Commercial Waste. All refuse emanating from establishments engaged in business including, but not limited to stores, markets, office buildings, restaurants, shopping centers, theaters, hospitals, governments and nursing homes.
 - (b) Dwelling Unit. Any enclosure, building or portion thereof occupied by one or more persons for and as living quarters;
 - (c) Garbage. Waste resulting from the handling, processing, storage, packaging, preparation, sale, cooking and serving of meat, produce and other foods and shall include unclean containers;
 - (d) Multi-Family Unit. Any structure containing more than four individual dwelling units;
 - (e) Refuse. All garbage and/or rubbish or trash;
 - (f) Residential. Any structure containing four or less individual dwelling units, rooming houses having no more than four persons in addition to the family of the owner or operator, and mobile homes;
 - (g) Rubbish or Trash. All nonputrescible materials such as paper, tin cans, bottles, glass, crockery, rags, ashes, lawn and tree trimmings, stumps, boxes, wood, street sweepings and mineral refuse. Rubbish or trash shall not include earth and waste from building operations or wastes from industrial processes or manufacturing operations;
 - (h) Single Dwelling Unit. An enclosure, building or portion thereof occupied by one family as living quarters.
 - (i) Solid Waste. All non-liquid garbage, rubbish or trash.
- (Code 1997)
- 15-502. COLLECTION. All solid waste accumulated within the city shall be collected, conveyed and disposed of by the city or by contractors specifically authorized to collect and dispose of solid waste.
(Ord. 327, Sec. 2; Code 1997)
- 15-503. CONTRACTS. The city shall have the right to enter into a contract with any responsible person for collection and disposal of solid waste.
(Code 1997)
- 15-504. DUTY OF OWNER, OCCUPANT. The owner or occupant of every dwelling unit or commercial enterprise shall provide at his or her own expense a suitable container for the storage of solid waste as provided in this article. No owner or occupant shall permit to accumulate quantities of refuse or other waste materials within or close to any structure within the city unless the same is stored in approved containers and in such a manner as not to create a health or fire hazard.
(Ord. 327, Sec. 6; Code 1997)
- 15-505. CONTAINERS. Residential containers shall have a capacity of not more than 30 gallons. They shall be of galvanized metal or other non-rusting material of substantial construction. Each container shall have a tight fitting lid and shall be leak-proof and fly-tight. All containers shall have handles of suitable construction

to permit lifting. Plastic bags manufactured for garbage and refuse disposal may be substituted for residential containers. Plastic bags, when used, shall be securely closed. All garbage shall be drained of all liquids before being placed in bags or containers.

(Ord. 327, Sec. 4; Code 1997)

15-506. **BULK CONTAINERS.** On premises where excessive amounts of refuse accumulates or where cans or bags are impractical bulk containers for the storage of refuse may be used. Containers shall have a capacity and shall be equipped with appurtenances for attaching mechanical lifting devices which are compatible with the collection equipment being used. Containers shall be constructed of durable rust and corrosion resistant material which is easy to clean. All containers shall be equipped with tight fitting lids or doors to prevent entrance of insects or rodents. Doors and lids shall be constructed and maintained so they can be easily opened. Containers shall be watertight, leakproof and weather proof construction.
(Ord. 327, Sec. 4; Code 1997)

15-507. **ENTER PRIVATE PREMISES.** Solid waste collectors, employed by the city or operating under contract with the city, are hereby authorized to enter in and upon private property for the purpose of collecting solid waste therefrom as required by this article.
(Code 1997)

15-508. **OWNERSHIP OF SOLID WASTE.** Ownership of solid waste when placed in containers by the occupants or owners of premises upon which refuse accumulates, shall be vested in the city and thereafter shall be subject to the exclusive control of the city, its employees or contractors. No person shall meddle with refuse containers or in anyway pilfer or scatter contents thereof in any alley or street within the city.
(Code 1997)

15-509. **WRAPPING GARBAGE.** All garbage shall be drained of all excess liquid, and wrapped in paper or other disposable container before being placed in solid waste containers.
(Code 1997)

15-510. **HEAVY, BULKY WASTE.** Heavy accumulations such as brush, tree limbs, broken concrete, sand or gravel, automobile frames, dead trees, and other bulky, heavy materials shall be disposed of at the expense of the owner or person controlling same.

(Ord. 327, Sec. 2; Code 1997)

15-511. **HAZARDOUS MATERIALS.** No person shall deposit in a solid waste container or otherwise offer for collection any hazardous garbage, refuse, or waste. Hazardous material shall include:
 (a) Explosive materials;
 (b) Rags or other waste soaked in volatile and flammable materials;
 (c) Chemicals;
 (d) Poisons;

- (e) Radio-active materials;
 - (f) Highly combustible materials;
 - (g) Soiled dressings, clothing, bedding and/or other wastes, contaminated by infection or contagious disease;
 - (h) Any other materials which may present a special hazard to collection or disposal personnel, equipment, or to the public.
- (Code 1997)

15-512. PROHIBITED PRACTICES. It shall be unlawful for any person to:

- (a) Deposit solid waste in any container other than that owned or leased by him or under his control without written consent of the owner and/or with the intent of avoiding payment of the refuse service charge;
- (b) Interfere in any manner with employees of the city or its contractors in the collection of solid waste;
- (c) Burn solid waste except in an approved incinerator and unless a variance has been granted and a written permit obtained from the city or the appropriate air pollution control agency;
- (d) Bury refuse at any place within the city except that lawn and garden trimmings may be composted.

(Ord. 327, Sec. 6; Code 1997)

15-513. OBJECTIONABLE WASTE. Manure from cow lots, stables, poultry yards, pigeon lofts and other animal or fowl pens, and waste oils from garages or filling stations shall be removed and disposed of at the expense of the person controlling the same and in a manner consistent with this article.

(Ord. 327, Sec. 2; Code 1997)

15-514. UNAUTHORIZED DISPOSAL. No person shall haul or cause to be hauled any garbage, refuse or other waste material of any kind to any place, site or area within or without the limits of the city unless such site is a sanitary landfill, transfer point or disposal facility approved by the Kansas State Department of Health and Environment.

(Code 1997)

15-515:519 Reserved.

15-520. RULES AND REGULATIONS. The collection and transportation of trash and waste materials shall be at all times under the general supervision of the mayor or his or her duly authorized agent, who shall have the authority by and with the consent of the governing body to make additional rules and regulations not inconsistent with the terms and provisions of this article requiring that the collection and transportation of trash and waste materials shall be conducted in such manner as not to endanger the public health, or to become an annoyance to the inhabitants of the city, and providing for a proper fee to be charged to the customer.

(Code 1997)

15-521. FAILURE TO SECURE LICENSE. Any person who shall conduct or operate within the city limits any vehicle for the purpose of collecting and transporting solid waste without first obtaining a license as required by this article or who shall violate

the terms and provisions of this article shall be deemed guilty of a violation of this code and upon conviction thereof shall be punished as provided in section 1-116. (Code 1997)

- 15-522. **CHARGES.** Charges for collection and disposal. The city, in providing the service of collecting and disposing of refuse accumulated within the city, for the purpose of preventing unsanitary, unsightly, hazardous, unhealthy and dangerous conditions caused by the accumulation of garbage and refuse, shall establish and collect a service charge or fee to defray the cost of maintenance of service and to pay any person contracting with the city for the collection and disposal thereof. Such service 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 and time expended in collection and disposal thereof.
(Ord. 427, Sec. 1; Code 2005; Ord. 445, Sec. 1; Ord. 449, Sec. 1; Ord. 584, Sec. 1)
- 15-523. **SAME; FEE SCHEDULE.** The following schedule of charges is hereby established as reasonable and in accordance with the volume of garbage and refuse handled from the following classifications of residences, dwellings, commercial establishments and schools. There shall be charged, assessed and collected from each residential unit within the city the monthly amount of \$13.20. There shall be charged, assessed and collected from each business place the monthly amount of \$25.85. There shall be charged, assessed and collected from each school \$53.90.
(Ord. 427, Sec. 1; Code 2005; Ord. 445, Sec. 1; Ord. 449, Sec. 1; Ord. 584, Sec. 1)
- 15-524. **BILLING.** Solid waste charges shall be billed monthly and shall be included on water or utility bills. No payment shall be accepted on utility bills except for the full amount billed for all services. Delinquent solid waste bills shall carry the due dates, grace periods and penalties as water bills.
(Code 1997)
- 15-525. **SAME; DELINQUENT ACCOUNT.** In the event the owner or occupant of any property shall fail to pay the solid waste bills within 60 days following the date upon which it becomes due, the city clerk shall annually certify such unpaid bills to the county clerk as a lien upon the property. The lien shall be collected subject to the same regulations and penalties as other property taxes are collected.
(K.S.A. 65-3410; Code 1997)
- 15-526. **WASTE TO BE BURNED.** Grass clippings, tree branches, and all vegetation must be hauled to the city burn site and removed from their containers, such as plastic bags, etc.
(Ord. 445, Sec. 2; Ord. 449, Sec. 2; Ord. 584, Sec. 2)

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.
(Ord. 398, Sec. 1; Code 1997)
- 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.
(Ord. 398, Sec. 2; Code 1997)
- 15-603. DECLARATION OF WATER WATCH. Whenever the governing body of the city finds that conditions indicate that the probability of a drought or some other condition causing a major water supply shortage is rising, it shall be empowered to declare, by resolution that a water watch exists and that it shall take steps to inform the public and ask for voluntary reductions in water use. Such a watch shall be deemed to continue until it is declared by resolution of the governing body to have ended. The resolutions declaring the existence and end of a water watch shall be effective upon public notice and on Cable TV.
(Ord. 398, Sec. 3)
- 15-604. DECLARATION OF WATER WARNING. Whenever the governing body finds that drought conditions or some other condition causing a major water supply shortage are present and supplies are starting to decline, it shall be empowered to declare by resolution that a water warning exists and that it will recommend restrictions on nonessential uses during the period of the warning. Such a warning

shall be deemed to continue until it is declared by resolution of the governing body to have ended. The resolution declaring the beginning and ending of the water warning shall be effective upon public notice and on Cable TV.
(Ord 398, Sec. 4)

15-605. **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.

(Ord. 398, Sec. 5; Code 1997)

15-606. **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.

(Ord. 398, Sec. 6; Code 1997)

15-607. **MANDATORY CONSERVATION MEASURES.** Upon the declaration of a water supply emergency as provided in section 15-605, 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.

(Ord. 398, Sec. 7; Code 1997)

- 15-608. EMERGENCY WATER RATES. Upon the declaration of a water supply emergency as provided in section 15-605, 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).
- (Ord. 398, Sec. 8; Code 1997)
- 15-609. REGULATIONS. During the effective period of any water supply emergency as provided for in section 15-605, the mayor is empowered to promulgate such regulations as may be necessary to carry out the provisions of this article, any water supply emergency resolution, or emergency water rate ordinance. Such regulations shall be subject to the approval of the governing body at its next regular or special meeting.
- (Ord. 398, Sec. 9; Code 1997)
- 15-610. VIOLATIONS, DISCONNECTIONS AND PENALTIES. (a) If the mayor, water superintendent, or other city official or officials charged with implementation and enforcement of this article or a water supply emergency resolution or ordinance learn of any violation of any water use restrictions imposed pursuant to sections 15-607 or 15-609, 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 re-connection of any water service terminated pursuant to subsection (a). In the event of subsequent violations, the re-connection 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 \$100.00. In addition, such customer may be required by the court to serve a definite term of confinement in the city or county jail which shall be fixed by the court and which shall not exceed 30 days. The penalty for a second or subsequent conviction shall be a mandatory fine of \$200.00. 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.
- (Ord. 398, Sec. 10; Code 1997)
- 15-611. EMERGENCY TERMINATION. Nothing in this article shall limit the ability of any

properly authorized city official from terminating the supply of water to any or all service connections as required to protect the health and safety of the public. (Ord. 398, Sec. 11; Code 1997)

CHAPTER XVI. ZONING AND PLANNING

Article 1. Reserved

ARTICLE 1. RESERVED