C O D E

Of the

CITY OF ALTA VISTA

Kansas

Published Under the Authority and by the Direction of

The Governing Body of the City of Alta Vista,

Kansas, this 19th day of September, 2011

A Codification of the General Ordinances
Of the City of Alta Vista, Kansas

ROSTER OF CITY OFFICIALS

CITY OF ALTA VISTA

GOVERNING BODY

MAYOR
Aaron Werner

COUNCILMEMBERS

Rick Parkerson
Larry Kabriel
Aaron Monihen
Ryan Armbrust
Monte Davidson

ADMINISTRATIVE OFFICIALS

Pamela McDiffett
City Clerk

Tom Barnes
City Attorney

Kathie Davidson
Treasurer

Steve Iverson.
Municipal Judge

Clay Glessner
Fire Chief

PREFACE

This volume contains the Code of the City of Alta Vista, Kansas, 2011. As expressed in the adopting ordinance, the code supercedes all ordinances passed prior to September, 2011, which are not included herein recognized as continuing force by reference thereto. The code was prepared by the staff of the City of Alta Vista and the city officials under the authority of Sections 12-3014:3015 of the Kansas Statutes annotated.

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

Any section of this code may be amended or repealed by ordinary ordinance by reference to the code section number as follows:

"Section 1-105 of the Code of the City Alta Vista is hereby amended to read as follows: (the new provisions shall then be set out in full)."

A new section not heretofore existing in the code may be added as follows:
"The Code of the City of Alta Vista is hereby amended by adding a section (or article or chapter) which reads as follows: (the new provision shall be set out in full)".

All sections or articles or chapters to be repealed shall be repealed by specific reference as follows:
"Section 1-105 (or article or chapter) of the Code of the City of Alta Vista is hereby repealed."

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

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

PREPARED AND PUBLISHED BY
THE CITY OF ALTA VITSA
Gary Hanson, City Attorney
Karen Smith, Deputy Clerk

ORDINANCE NO. 1042

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE CODIFICATION OF THE GENERAL ORDINANCES OF THE CITY OF ALTA VISTA, KANSAS, AND THE PUBLICATION OF SUCH CODIFICATION IN PERMANENTLY BOUND OR LOOSE LEAF BOOK FORM.

Be it ordained by the Governing Body of the City of Alta Vista:

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

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

PASSED and APPROVED BY THE Governing Body this 14th day of April, 2009

ATTEST: Pamela McDiffett
City Clerk

Karl G. Lloyd
Mayor

(SEAL)

ORDINANCE NO. 1055

AN ORDINANCE ADOPTING THE CODIFICATION OF ORDINANCES OF THE CITY OF ALTA VISTA, KANSAS, AUTHORIZED BY ORDINANCE NO. 1042 PROVIDING FOR THE REPEAL OF CERTAIN OTHER ORDINACES NOT INCLUDED THERE IN, EXCEPTING CERTAIN ORDINANCES FROM REPEAL AND SAVING CERTAIN ACCRUED RIGHTS AND LIABILITIES.

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

Section 1. The codification of ordinances of the City of Alta Vista, Kansas, authorized by Ordinance 1042 and K.S.A. 12-3014 and 12-3015, as set out in the following chapters, Chapters I to XVI and Appendices A and B, all inclusive, and entitled the "Code of the City of Alta Vista, Kansas, 2011," is hereby adopted and ordained as the "Code of the City of Alta Vista, Kansas, 2011," and said codification shall become effective upon the publication of no fewer than 10 copies of said code in book form.

Section 2. All ordinances and parts of ordinances of a general nature passed prior to September, 2011, in force and effect at the date of the publication of no fewer than 10 copies of the "Code of the City of Alta Vista, Kansas, 2011 and this ordinance, are hereby repealed as of the date of publication of said code except as herein after provided.

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

(a) Ordinances pertaining to the acquisition of property or interests in property by gift, purchase, devise, bequest, appropriation or condemnation;
(b) Ordinances opening, dedicating, widening, vacating or narrowing streets, avenues, alley and boulevards;
(c) Ordinances establishing and changing grades of streets, avenues, alleys and boulevards;
(d) Ordinances naming or changing the names of streets, avenues, alleys and boulevards;
(e) Ordinances authorizing or directing public improvements to be made;
(f) Ordinances creating districts or public improvements of whatsoever kind or nature;
(g) Ordinances levying general taxes;
(h) Ordinances levying special assessments or taxes;
(i) Ordinances granting any rights, privileges, easements or franchise therein mentioned to any person, firm or corporation.
(j) Ordinances authorizing the issuance of bonds and other instruments of indebtedness by the city;
(k) Ordinances authorizing contracts.
(l) Ordinances establishing the limits of the city or pertaining to annexation or exclusion of territory;
(m) Ordinances relating to compensation of officials, officers and employees of the city;
(n) Ordinances of a temporary nature;
Provided, that the above enumeration of exceptions shall not be held or deemed to be exclusive, it being the purpose and intention to exempt from repeal any and all ordinance not of a general nature and general ordinances specifically excepted by this section.

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

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

Section 6. If for any reason any chapter, article, section, subsection, sentence, portion or part of the "Code of the City of Alta Vista, Kansas 2011," or the application thereof to any person or circumstances is declared to be unconstitutional or invalid, such decision will not affect the validity of the remaining portions of this code.

Section 7. The ordinance shall take effect and be in force from and after the publication of the "Code of the City of Alta Vista, Kansas, 2011 as provided in K.S.A. 12-3015.

Passed by the Governing Body of the City of Alta Vista, Kansas, this 19th day of September, 2011.

/s/ Karl G. Lloyd, Mayor

ATTEST: /S/ Pamela McDiffett, City Clerk

(SEAL)

CERTIFICATE OF THE CITY CLERK

Office of the City Clerk
City of Alta Vista, Kansas

STATE OF KANSAS

WABAUNSEE COUNTY

I, Pamela McDiffett, City Clerk of the City of Alta Vista, Wabaunsee County, Kansas do hereby certify that said city is a city of the third class of the mayor-council form of government under the statues of Kansas; that this codification of the general ordinances of said city and the publication thereof in book form were ordered and authorized by the governing body by Ordinance No.1042 and in accordance therewith is entitled the "Code of the City of Alta Vista, Kansas 2011", that said codification was adopted as the "Code of the City of Alta Vista, Kansas, 2011," by the governing body by Ordinance No.1055 passed on the 19th day of September, 2011 as authorized by Section 12- 3015 of the Kansas Statutes Annotated; that said Ordinance No. 1054 and said codification of general ordinances as contained in this volume will take effect upon publication of 10 or more copies; that the publication of 10 copies of this code and adoptive Ordinance No 1055 constitute due passage of this code and all general ordinances contained therein; that the codification and adoptive Ordinance No. 1055 as contained herein are true and correct copies; and that said publication imports absolute verity and is to be received in evidence in all courts and places without further proof as provided by 12-3015 of the Kansas Statutes Annotated.

I further certify that the "Code of the City of Alta Vista, Kansas, 2011," and the matter therein contained will take effect upon publication and be in force from and after September 29, 2011.

Witness my hand and the seal of the City of Alta Vista, Kansas, at my office in Alta Vista, Kansas, this 19th day of September, 2011

/s/Pamela McDiffett, City Clerk
City of Alta Vista, Kansas

(S E A L)

Alta Vista

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ARTICLE 1. GENERAL PROVISIONS

1-101. **CODE DESIGNATED**. The chapters, articles and sections herein shall constitute and be designated as "The Code of the City of Alta Vista, Kansas", and may be so cited. The Code may also be cited as the "Alta Vista City Code." (Code 2001)

1-102. **DEFINITIONS.** In the construction of this code and of all ordinances of the city, the following definitions and rules shall be observed, unless such construction would be inconsistent with the manifest intent of the governing body or the context clearly requires otherwise:

(a) **City** shall mean the City of Alta Vista, Kansas, in Wabaunsee County, Kansas.

(b) **Code** shall mean "The Code of the City of Alta Vista, Kansas."

(c) **Computation of Time**. The time within which an act is to be done shall be computed by excluding the first and including the last day; and if the last day be a Saturday, Sunday, or legal holiday, that day shall be excluded.

(d) **County.** Means the County of Wabaunsee in the State of Kansas.

(e) **Delegation of Authority**. Whenever a provision appears requiring or authorizing the head of a department or officer of the city to do some act or perform some duty, it shall be construed to authorize such department head or officer to designate, delegate and authorize subordinates to do the required act or perform the required duty unless the terms of the provision designate otherwise

(f) **Gender.** Words importing the masculine gender include the feminine and neuter.

(g) **Governing Body.** Shall be construed to mean the mayor and city council of the city, or those persons appointed to fill a vacancy in the office of mayor or the council as provided in this code.

(h) **In the city.** Shall mean and include all territory over which the city now has, or shall hereafter acquire jurisdiction for the exercise of its law enforcement powers or other regulatory powers.

(i) **Joint authority**. All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

(j) **Month.** Shall mean a calendar month.

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

(l) **Oath.** Includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the word "swear" is equivalent to the word "affirm" and "affirmed".

(m) **Officers, departments, etc.** Officers, departments, boards, commissions and employees referred to in this code shall mean officers, departments, boards, commissions and employees of the city, unless the context clearly indicates otherwise.

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

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

(p) **Property.** Includes real, personal and mixed property.

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

(r) **Shall, may, will, must.** "Shall" "Will" "Must" is mandatory and "May" is permissive.

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

(t) **Signature, subscription.** Includes a mark when the person cannot write, when his or her name is written near such a mark and is witnessed by a person who writes his or her own name as a witness.

(u) **State.** Shall be constructed to mean the State of Kansas.

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

(w) **Tenant or occupant.** Applied to a building or land, shall include any person holding a written or oral lease of, or who occupies the whole or a part of such building or land, whether alone or with others.

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

(x) **Writing or written.** May include printing, engraving, lithography and any other mode of representing words and letters, except in those cases where the written signature or the mark of any person is required by law.

(z) **Year**. Means a calendar year, except where otherwise provided. (Code 2001)

1-103. **EXISTING ORDINANCES**. The provisions appearing in this code, so far as they are in substance the same as those of ordinances existing at the time of the effective date of the code, shall be considered as continuations thereof and not as new enactments. (Code 2001)

1-104. **EFECT OF REPEAL.** The repeal of an ordinance shall not revive an ordinance previously repealed, nor shall such repeal affect any right which has accrued, any duty imposed, any penalty incurred or any proceeding commenced under or by virtue of the ordinance repealed, except as shall be expressly stated therein. (Code 2001)\

1-105. **CATCHLINES OF SECTIONS**. The catch lines of the sections of this code printed in capital letters are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of any section, nor unless expressly so provided, shall they be so deemed when any section, including its catchline, is amended or reenacted. (Code 2001)

1-106. **PARENTHETICAL AND REFERENCE MATTER**. The matter in parenthesis at the ends of the sections is for information only and not to be changed by this code. This code is a new enactment under the provisions of K.S.A. 12-3014 and 12-3015. Reference matter not in parenthesis is for information only and is not a part of this code. (Code 2001)

1-107. **ORDINANCES.** The governing body shall have the care, management and control of the city and its finances, and shall pass all ordinances needed for the welfare of the city. All ordinances shall be valid when a majority of all the members-elect of the city council shall vote in favor. Where the number of favorable votes is one less than required, the mayor shall have power to cast the deciding vote in favor of the ordinance. (K.S.A. 12-302; Code 2001)

1-108. **SAME SUBJECT AND TITLE; AMENDMENTS; REPEAL**.

No ordinance shall contain more than one subject, which shall be clearly expressed in its title; and no section or sections of an ordinance shall be amended unless the amending ordinance contains the entire section or sections as amended and the section or sections amended shall be repealed. (K.S.A. 12-3004; Code 2001)

(a) Any portion of this code may be amended by specific reference to the section number as follows: "That section _____ of the code of the City of Alta Vista is hereby amended to read as follows: (The section as amended shall then be set out in full) . . ."

(b) A new section not heretofore existing in the code may be added as follows: "That the code of the City of Alta Vista is hereby amended by adding a section (or article or chapter) which reads as follows. . . (the new section shall be set out in full). . ."

(c) All sections, or articles or chapters to be repealed shall be repealed by specific reference as follows: Section (or article or chapter) _____ of the code of the City of Alta Vista is hereby repealed. (Code 1985)

1-109. **SAME; PUBLICATION.** No ordinance, except those appropriating money, shall be in force until published in the official city newspaper by the city clerk. One publication of any such ordinance shall be sufficient unless additional publications are required by statute or ordinance. The publisher of the newspaper shall prefix such published ordinance by a line in brackets stating the month, day and year of such publication. (K. S. A. 12-3007; Code 2001)

1-110. **SAME; ORDINANCE BOOK**. Following final passage and approval of each ordinance, the city clerk shall enter the same in the ordinance book of the city as provided by law. Each ordinance shall have appended thereto the manner, which the ordinance was passed, the date of passage, and the page of the journal containing the record of the final vote on its passage, the name of the newspaper in which published and the date of publication. (K.S.A. 12-3088; Code 2001)

1-111. **RESOLUTIONS; MOTIONS**. Except where a state statute or city ordinance specifically requires otherwise, all resolutions and motions shall be passed if voted upon favorably by a majority of a quorum of the city council. (Code 2001)

1-112. **CITY RECORDS**. The city clerk or any other officer or employee having custody of city records and documents shall maintain such records and documents in accordance with K.S.A. 12-120 to 12-121 inclusive, which is incorporated by reference herein as if set out in full and as provided in the state open records act and the city policy regarding open public records. (K.S.A. 12-120:121; Code 2001)

1-112 A. **ALTERING CODE**. It shall be unlawful for any person, firm or corporation to change or amend by additions or deletions any part or portion of this code or to insert or delete pages, or portions thereof, or to alter or tamper with such code in any manner whatsoever which will cause the law of the City of Alta Vista to be misrepresented thereby. This restriction shall not apply to amendments or revisions of this code authorized by ordinance duly adopted by the governing body. (Code 2001)

1-113. **SCOPE OF APPLICATION**. Any person convicted of doing any of the acts or things prohibited, made unlawful or the failing to do any of the things commanded to be done, as specified and set forth in this code, shall be deemed in violation of this code and punished in accordance with section 1-115. Each day any violation of this code continues shall constitute a separate offense. (Code 2001)

1-114. **GENERAL PENALTY**. Whenever any offense is declared by any provision of this code, absent a specific or unique punishment prescribed, the offender shall be punished in accordance with this section.

(a) A fine of not more than $1,000; or
(b) Imprisonment in jail for not more than 179 days; or,
(c) Both such fine and imprisonment not to exceed (a) and (b) above. (Code 2001)

1-115. **SEVERABILITY.** If for any reason any chapter, article, section, subsection, sentence, clause or phrase of this code or the application thereof to any person or circumstance, is declared to be unconstitutional, invalid, or unenforceable, such decision shall not affect the validity of the remaining portions of this code. (Code 2001)

ARTICLE 2. GOVERNING BODY

1-201. **GOVERNING BODY.** The governing body shall consist of a mayor and five (5) City council members to be elected as set out in Chapter 6 of this code. (Code 2001)

1-202. **SAME; POWERS GENERALLY.** All powers exercised by cities of the third class or which shall hereafter be conferred upon them shall be exercised by the governing body, subject to such limitations as prescribed by law. All executive and administrative authority granted or limited by law shall be vested in the mayor and council as governing body of the city. (K.S.A. 15-103; Code 2001)

1-203. **SAME MEETINGS**.

(a) Regular meetings of the governing body shall be held on the third Monday of each Month at 7:00 p.m. In the event the regular meeting day shall fall on any legal holiday or any day observed as a holiday by the city offices, the governing body shall fix the succeeding day not observed as a holiday as a meeting day.

(b) Special meetings may be called by the mayor or acting mayor, specifying the purpose of such meeting, and shall be read at the meeting and entered at length on the journal.

(c) Regular or special meetings of the governing body may be adjourned for the completion of its business at such subsequent time and place, as the governing body shall determine in its motion to adjourn. (K.S.A. 15-106; Ordinance 1052-2011)

1-204. **SAME QUORUM**. In all cases, it shall require a majority of the council members-elect to constitute a quorum to do business. (K.S.A. 15-106; ode 2001)

1-205. **POWERS OF THE MAYOR**. The mayor shall preside at all meetings of the governing body. The mayor shall have the tie-breaking vote on all questions when members present are equally divided. The mayor shall:

(a) Have the superintending control of all officers and affairs of the city;
(b) Take care that the ordinances of the city are complied with;
(c) Sign the commissions and appointments of all officers elected or appointed;
(d) Endorse the approval of the governing body on all official bonds;
(e) From time to time communicate to the city council such information and recommend such measures, as he or she deem advisable;
(f) Have the power to approve or veto any ordinance, as the laws of the state shall prescribe;
(g) Sign all orders and drafts drawn upon the city treasury for money. (K.S.A. 15-301; Code 2001)

1-206. **PRESIDENT OF THE COUNCIL**. The city council shall, at its first regular meeting in the month of May following any city election, elect one of its own body as president of the council. The president of the council shall preside at all meetings of the council in the absence of the mayor, in the absence of both the mayor and the president of the council, the council shall elect one of its members as "acting president of the council." The president and acting president, when occupying the place of mayor, shall have the same privileges as other council members but shall exercise no veto. (K.S.A. 15-301; Code 2001)

1-207. **ADMINSTRATIVE POWERS**. The governing body may designate whether the administration of a policy or the carrying out of any order shall be performed by a committee, an appointive officer, or the mayor. If no administrative authority is designated it shall be vested in the mayor (Code 2001)

1-208. **VACANCIES IN GOVERNING BODY; HOW FILLED**. If any person elected to the council does not qualify within the required time, he or she shall be deemed to have refused to accept the office and a vacancy shall exist. In case of a vacancy in the council, occurring by reason of failure or refusal to qualify, resignation, death, removal from the city, removal from office, or becoming mayor by reason of being president of the council when a vacancy occurs in the office of mayor; the mayor shall appoint, with the consent of a majority of the remaining council members, some suitable elector of the city to fill the vacancy until the expiration of the term of such office. (C. O. No 1; Code 2001)

1-209. **COMPENSATION.** Members of the governing body shall receive as compensation such amounts as may be fixed by ordinance. (Code 2001)

1-210. **EXPENSES.** Each member of the governing body shall receive for his or her services and as reimbursement for his or her expenses, compensation as follows:

(a) Mileage at the same rate established by law by the state of Kansas for state employees for each mile traveled by the shortest route upon the performance of duties assigned by the mayor and/or council.

(b) Reimbursement for actual food and lodging expenses upon the performance of duties assigned by the mayor and/or council provided such expenses shall be documented by proper receipts. (Code 2001)

1-211. **RULES AND ORDER OF BUSINESS**. The following shall constitute guidelines for the rules and order of business of the city.

RULE 1. **Adjourned meetings**. Adjourned meetings of the governing body may be held at such times and places as the governing body may determine in the motion to adjourn.

RULE 2. **Special Meetings**. Special meetings may be held at any time upon a call signed by a majority of the governing body.

Rule 3. Order of Business. At the hour appointed for meeting, the governing body shall be called together by the mayor, and in his or her absence by the acting mayor. The city clerk shall call the roll, note the absentees, and announce whether a quorum be present. Upon the appearance of a quorum the governing body shall proceed to business, which shall be conducted in the following order:

(1) Citizens Comments:
(2) Reading of the minutes of the last regular meeting and intervening special meetings, which if no corrections are offered, shall stand approved;
(3) Presentation of petitions, memorials, and remonstrance's;
(4) Presentation of claims and appropriation ordinance;
(5) Reports by city employees;
(6) Unfinished business;
(7) New business;
(8) Mayor and Council Reports;
(9) Adjournment

Rule 4. Order. The mayor shall preserve order and decorum and shall decide questions of order subject to an appeal to the council.

Rule 5. Decorum. Every member previous to his or her speaking shall address himself or herself to the chair and shall not proceed until recognized by the chair. He or she shall indulge in no personalities and confine his or her remarks to the matter under debate.

Rule 6. Point of Order. A member called to order shall immediately suspend until the point of order raised is decided by the chair.

Rule 7. Resolutions. All resolutions must be in writing.

Rule 8. Motions During Debate. When a question is under debate no motion shall be entertained;

(1) To adjourn;
(2) To lay on the table;
(3) To take the previous question;
(4) To postpone;
(5) To amend; which several motions shall have precedence in the order in which they are named, and the first three shall be decided without debate.

Rule 11. Signing and Engrossing Ordinances. After an ordinance shall have passed it shall be correctly entered in the original ordinance book and the original and the book copy shall be signed by the mayor, or in the absence of the mayor by the acting mayor, and attested by the clerk, who shall secure publication of the ordinance as required by law.

Rule 12. Clerk Reads Communications. Petitions and other papers addressed to the governing body shall be read by the clerk under proper order of business upon presentation of the same to the board.

Rule 13. Robert's Rules of Order. In all points not covered by these rules the governing body shall be governed in its procedure by Robert's Rules of Order. (Code 2001)

ARTICLE 2. OFFICERS AND EMPLOYEES

1-201 **APPOINTMENT.** At the first regular meeting in May of each year the mayor, by and with the consent of the council, shall appoint a city clerk and city treasurer, and may appoint a city attorney, municipal judge, law enforcement officer, city code officer and such other officers as may be deemed necessary for the best interest of the city. Such officers shall hold their respective offices until their successors have been appointed and qualified. All such appointments shall be entered on the journal of proceedings of the governing body. The duties and salaries of all appointed officers shall be fixed by ordinance (K.S. A. 15-204; Code 2001)

1-202. **EMPLOYEES.** The mayor shall have authority to hire all other employees, or such authority may be delegated to the respective department heads. (Code 2001)

1-203. **REMOVAL.**

(a) A majority of all members elected of the governing body may remove any appointed officer.

(b) For good cause, the mayor may suspend at any time any appointed officer.

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

(d) No officer or employee shall be removed for any reason until he or she has been given notice and afforded the opportunity for a hearing. (K.S.A. 15-204; Code 2001)

1-204. **VACANCY IN OFFICE**. Whenever a vacancy occurs in any appointive office for whatever reason, the vacancy shall be filled by the governing body. Any person appointed to fill such vacancy shall serve only until the next regular time for appointment. (K.S.A. 15-209; Code 2001)

1-205. **CITY CLERK**. The city clerk shall:

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

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

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

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

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

(f) Publish all ordinances, except those appropriating money, and such resolutions, notice and proclamations as may be required by law or ordinance. (Code 2001)

1-206. **SAME; FISCAL RECORDS**. The city clerk shall:

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

(b) Assist in preparing the annual budget;

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

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

(e) Keep a record of all special assessments. (Code 2001)

1-207. **SAME; SEAL; OATHS**. The city clerk shall:

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

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

(c) Keep suitable files of all such oaths required to be deposited in his or her office. (Code 2001)

1-208. **SAME; WITHHOLDING AGENTS**. The city clerk is designated as the withholding agent of the city for the purposes of the Federal Revenue (Income) Act, and shall perform the duties required of withholding agents by said act or any other act requiring withholding from the compensation of any city officer or employee. The clerk shall perform such other duties as may be prescribed by the governing body or the Kansas statutes. (Code 2001)

1-209. **ASSISTANT CITY CLERK**.

(a) The office of assistant city clerk is hereby established. The mayor shall appoint, by and with the consent of the city council, the assistant city clerk. The person so appointed and confirmed shall hold the office for a term of one year and until a successor is appointed and confirmed.

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

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

(d) Compensation of the assistant city clerk shall be set by ordinance passed by the governing body. (Code 2001)

1-210. **CITY TREASURER**. The city treasurer shall:

(a) Sign all checks of the city;

(b) Perform such other duties as may be prescribed by the governing body or the Kansas Statues. (K.S.A. 10-803; K.S.A. 12-1608; Code 2001)

1-211. **CITY ATTORNEY; OFFICE; DUTIES.** There is hereby established the office of city attorney. No person shall be eligible for the office of city attorney who is not an attorney at law admitted to practice in the Supreme Court of the State of Kansas. The city attorney shall be charged with the general direction and supervision of the legal affairs of the city. The city attorney shall:

(a) Attend meetings of the city council when so directed to attend by the mayor;

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

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

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

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

(b) Attend planning commission and board of zoning appeals meetings when so directed by the boards;

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

(h) Perform such other duties as may be prescribed by the governing body and the Kansas statutes. (Code 2001)

1-212. **STREET SUPERINTENDENT; OFFICE AND DUTIES**.

The office of street superintendent is hereby established. The street superintendent shall be under the supervision and control of the mayor and council's street commissioner, and shall perform such duties for and on behalf of the city as authorized by the council.

(a) The street superintendent shall have supervision of the maintenance and repair of all streets, alleys, lanes, and other public thoroughfares of the city, and shall notify the council of all repairs needed on the streets of the city.

(b) The street superintendent shall be responsible for the observation of the condition of sidewalks and other footways of the city respecting their safety and state of repair and shall report to the city clerk all sidewalks believed to be in a dangerous condition or in need of repair.

(c) The street superintendent shall have charge of the trimming of trees standing in the parking of city streets. It shall be the duty of the street superintendent to report to the city clerk all property upon which weeds are growing in violation of the ordinances of the city. (Code 2001)

1-213. **PARK SUPERINTENDENT; OFFICE AND DUTIES**. The office of park superintendent is hereby established. The park superintendent shall have charge of the operation and maintenance of the city parks, and shall perform such other duties as may be assigned to him or her by the governing body. (Code 2001)

1-214. **SUPERINTENDENT OF UTILITIES; OFFICE AND DUTIES.**

The office of superintendent of utilities is hereby provided and established. The superintendent of utilities shall be responsible for the general operation, repair, and extension of the water and sewer utilities of the city within the utility department. The superintendent of utilities shall perform such other duties as the governing body may provide. (Code 2001)

1-215. **APPOINTMENT OR EMPLOYMENT IN MORE THAN ONE POSITION**.

The same person may be appointed to more than one appointive office, or employed in more than one department, except that the same person shall not be appointed to incompatible offices. Salaries or wages of such persons shall be prorated between the proper funds of the several offices or departments. (Code 2001)

1-216. **CONFLICT OF INTEREST**.

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

(1) In which the officer or employee owns a legal or equitable interest exceeding $5,000 or five percent, whichever is less, individually or collectively with his or her spouse; or

(2) From which the officer or employee receives, in the current or immediately preceding or succeeding calendar year, any salary, gratuity, other compensation or a contract for or promise or expectation of any such salary, gratuity or other compensation or remuneration having a dollar value of $1,000 or more; or

(3) In which he or she shall hold the position of officer or director, irrespective of the amount of compensation received from or ownership held in the business

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

(1) Contracts let after competitive bidding has been solicited by published notice; and

(2) Contracts for property or services for which the price or rate is fixed by law. (K. S. A. 75-4301; Code 2001))

ARTICLE 4. PERSONNEL POLICY AND EMPLOYEE GUIDELINE.

1-401. **PERSONNEL POLICY AND GUIDELINES**. There is hereby incorporated by reference for the purpose of establishing employee personnel rules and regulations the document entitles "Uniform Personnel Policies and Guidelines for the City of Alta Vista." No fewer than three copies of said document shall be marked or Stamped "Official Copy as adopted by the Code of the City of Alta Vista" and which there shall be attached a copy of this section. Said official copies shall be filed with the city clerk and shall be open to inspection and available to the public at all reasonable hours. All departments of the city shall be supplied with copies of such rules and regulations as may be deemed necessary. (Code 2001)

ARTICLE 5. EMPLOYEE BENEFIT FUND

1-501. **ESTABLISHMENT OF FUND**. An employee Benefit Contribution Fund is hereby established. The purpose of this fund is to pay the employer's (City of Alta Vista) share of any employee benefits, exclusive of salaries, wages or other direct payments to employees of the city. Payments, which the fund may make, include, but are not limited to payroll taxes, insurance, and retirement benefits. (K.S.A. 12-16, 102; Code 1985)

1-502. **OPERATION OF FUND**. The city may receive and place in this fund any moneys from any source, which may be lawfully utilized for the purposes herein stated. This includes proceeds of the tax levies authorized by law for such purposes. (K.S.A. 12-16, 102 Code 1985)

ARTICLE 6. OATHS AND BONDS.

1-601. **OATH**. All officers and employees of the city, whether elected or appointed, either under the laws of the State of Kansas or ordinances of the city, shall before entering upon the duties of their respective offices, take and subscribe an oath or affirmation as follows:
"I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States and the Constitution of the State of Kansas And faithfully discharge the duties of _____ (here enter name of office or position). So help me God." (K.S.A. 75-4308; Code 2001)

1-602. OATHS **FILES**. All officers and employees required to take and subscribe or sign an oath or affirmation shall be supplied the forms for the purpose at the expense of the city and upon taking and subscribing or signing any such oath or affirmation, the same shall be filed by the city clerk. (Code 2001)

1-603. **BOND REQUIRED.**

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

(1) City Treasurer - $10,000;

(2) City Clerk - $10,000;

(b) The governing body may provide for the coverage by blanket bond of such officers and employees and in such amounts as the governing body may, by resolution, designate. (CODE 2001)

1-604. **SAME PREMIUMS.** All premiums on surety bonds shall be paid by the city. (K.S.A. 78-111; Code 2001)

1-605. **CONDITION OF BONDS**. Each of the bonds required in section 1-603 of this article shall be conditioned for the faithful performance of duty and all acts required by the laws of Kansas and of the city, and for the application and payment over to the proper persons of all monies or property coming into the hands of each such officer by virtue of his or her office. (Code 2001)

1-606. **APPROVAL OF BONDS**. All bonds given to the city shall be approved as to their form by the city attorney and as to surety and sufficiency by the governing body, unless otherwise provided by the laws of the State of Kansas. (Code 2001)

ARTICLE 7. OPEN RECORDS

1-701. POLICY.

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

(b) Any person, upon request, shall have access to such open records for the purpose of inspecting, abstracting or copying such records while they are in the possession, custody and control of the appointed or designated record custodian hereof, or his or her designated representative. (Code 2001)

1-702. RECORD **CUSTODIANS.**

(a) All City officers and employees appointed or designated as record custodians under this article shall: protect public records from damage and disorganization; prevent excessive disruption of the essential functions of the city; provide assistance and information upon request; insure efficient and timely action and response to all applications for inspection of public records; and shall carry out the procedures adopted by this city for inspecting and copying open public records.

The official custodian shall prominently display or distribute or otherwise make available to the public a brochure in the form prescribed by the Local Freedom of Information Officer that contains basic information about the rights of a requester, the responsibilities of a public agency, and the procedures for inspecting or obtaining a copy of public records under the Kansas Open Records Act. The official custodian shall display or distribute or otherwise make available to the public the brochure at one or more places in the administrative offices of the city where it is available to members of the public who request public information in person. (Code 2001)

1-703 **LOCAL FREEDOM OF INFORMATION OFFICERS.** The Local Freedom Information Officer shall:

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

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

(c) Respond to inquiries relating to the Kansa s Open Records Act;

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

(e) Responsibilities of the city, and the procedures for inspecting and obtaining a copy of public records under the Act. (Code 2001)

1-704. **PUBLIC REQUEST FOR ACCESS.** All city offices keeping and maintaining open public records shall establish office hours during which any person may make a request for access to an open public record. Such hours shall be no fewer than the hours each business day the office is regularly open to the public. For any city office not open Monday through Friday, hours shall be established by the record custodian for each such day at which time any person may request access to an open public record. (Code 2001)

1-705. **FACILITIES FOR PUBLIC INSPECTION**. All city offices keeping and maintaining open public records shall provide suitable facilities to be used by any person desiring to inspect and/or copy an open public record. The office of the city clerk, being the principal record keeper of the city, shall be used as the principal office for providing access to and providing copies of open records to the maximum extent practicable. Requesters of records shall be referred to the office of the city clerk except when the requested records are not in that office and are available in another city office. (Code 2001)

1 706. **PROCEDURES FOR INSPECTION**. Any person requesting access to an open public record for purposes of inspecting or copying such record, or obtaining a copy thereof, shall abide by the procedures adopted by the governing body for record inspection and copying, including those procedures established by record custodians as authorized by the governing body. Such procedures shall be posted in each city office keeping and maintaining open public records. (Code 2001)

1-707. **APPOINTMENT OF OFFICIAL CUSTODIANS**. The following city officers are hereby appointed as official custodians for purposes of the Kansas Open Records Act and are hereby charged with responsibility for compliance with that Act with respect to the hereinafter listed public records:

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

(b) Fire Chief – All public records not on file in the office of the city clerk, kept, and maintained in the city fire department.

(c) City Attorney – All public records not on file in the office of the city clerk, and kept and maintained in the city attorney's office. (Code 2001)

1-708. **APPOINTMENT OF LOCAL FREEDOM OF INFORMATION OFFICER**. Appointment is made yearly in May when the official appointments are made by the Mayor. And is charged with all of the duties as set forth in Section 1-603. (Code 2001)

1-709. **REQUESTS TO BE DIRECTED TO CUSTODIANS**.

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

(b) Whenever any city officer or employee appointed or designated as a custodian under this article is presented with a request for access to, or copy of, a public record which record the custodian does not have in his or her possession and for which he or she has not been given responsibility to keep and maintain, the custodian shall so advise the person requesting the record. Further, the person making the request shall be informed as to which custodian the request should be addressed to, if such is know by the custodian receiving the request. (Code 2001)

1-710. **FEE ADMINISTRATION, INSPECTION FEE, COPYING FEE.**

(a) The city clerk shall maintain duplicates of all records and copy request forms, completed as to the amount of fee charged and collected, which amounts shall be periodically audited by the clerk-finance officer.

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

(c) In all cases not covered by subsection (a) of this section, a record inspection fee shall be charged at the rate of $10.00 per hour per employee engaged in the record search. A minimum charge of $5.00 shall be charged for each such request.

(d) A fee of $ .20 per page shall be charged for photocopying public records; such fee to cover the cost of labor, materials and equipment.

(e) For copying any public records, which cannot be reproduced by the city's photocopying equipment; the requester shall be charged the actual cost to the city, including staff time, in reproducing such records. (Code 2001)

1-711. **PREPAYMENT OF FEES.**

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

(b) Prepayment of inspection and/or copying fees shall be required whenever, in the best estimate of the record custodian, such fees are estimated to exceed $30.00

(c) Where prepayment has been demanded by the record custodian, no record shall be made available to the requester until such prepayment has been made. (Code 2001)

1-712. **PAYMENT**. All fees charged under this article shall be paid to the custodian of records inspected and/or copied unless the requester has an established account, for purposes of billing and payment, with the city. (Code 2001)

ARTICLE 8. INVESTMENT OF IDLE FUNDS

1-801**. INVESTMENT OF IDE FUNDS**. Temporarily idle monies of the city not currently needed, may in accordance with procedure hereafter described be invested:

(a) In temporary notes or no-fund warrants issued by such investing governmental unit:

(b) In time deposit, open records or certificates of deposit with maturities of not more than two years.

(1) In commercial banks which have offices located in such investing governmental unit or;

(2) If the office of no commercial bank is located in such investing governmental unit, then in commercial banks, which have offices in the county or counties in which all or part of such investing governmental units is located.

(c) In time certificates of deposit with maturities of not more than two years:

(1)With state or federally chartered savings and loan associations or federally chartered savings banks which have offices located in such investing governmental unit or;

(2) If the office of no state or federally chartered savings and loan association or federally chartered savings bank is located in such governmental unit, then with state or federally chartered savings and loan associations or federally chartered savings banks which have offices in the county or counties in which all or part of such investing governmental unit is located;

(d) In repurchase agreements with:

(1) Commercial banks, state or federally chartered savings and loan associations or federally chartered savings banks which have offices located in such investing governmental unit, for direct obligations of, or obligations that are insured as to principal and interest by, the United States government or any agency thereof; or

(2) (A) If the office of no commercial bank, state or federally chartered savings and loan association or federally chartered savings bank is located in such investing governmental unit; or

(B) If no commercial bank, state or federally chartered savings and loan association or federally chartered savings bank has an office located in such investing governmental unit at an interest rate equal to or greater than the investment rate, as defined in subsection (1) of K.S.A. 75-4201, and amendments thereto, then such repurchase agreements may be entered into with commercial banks, state or federally chartered savings and loan associations or federally chartered savings banks which have offices in the county or countries in which all or part of such investing government unit is located; or

(3) If no bank, state or federally chartered savings. and loan association or federally chartered savings bank which has its office in such county or counties is willing to enter into such an agreement with the investing governmental unit at an interest rate equal to or greater than the investment rate, as defined in subsection (1) of K.S.A. 75-4201, and amendments thereto, then such repurchase agreements may be entered into with commercial banks, state or federally chartered savings and loan associations or federally chartered savings banks which have offices in the State of Kansas;

(e) In United State treasury bills or notes with maturities, as the governing body shall determine, but not exceeding two years. Such investments transactions shall only be conducted with the following, which is doing business within the State of Kansas, any state or national bank, state or federally chartered savings and loan association, or federally chartered savings bank; or with primary government securities dealers which report to the market division of the federal reserve bank of New York, or any broker-dealer which is registered in compliance with the requirements of section 15C of the securities exchange act of 1934 and registered pursuant to K.S. A. 17-1254, and amendments thereto;

(f) The municipal investment pool fund;

(g) The investment authorized and in accordance with the conditions prescribed in section 2 of the municipal investment pool fund act;

(h) The trust departments of commercial banks which have offices located in such investing governmental unit or with trust companies which have contracted to provide trust services under the provisions of K.S.A. 9-2107, and amendments thereto with commercial banks which have offices located in the county or counties in which such investing governmental unit is located. Public moneys invested under this paragraph shall be secured in the same manner as provided for under K.S.A. 9-1402 and amendments thereto. Investments of public moneys under this paragraph shall be limited to those investments authorized under subsection (b) of section 1 of the municipal investment pool fund act.

(i) The investments authorized in paragraphs (e), (f), (g) or (h) of this section shall be utilized only if the appropriate eligible commercial banks, which have offices located in the investing governmental unit or in the county or counties in which all or a part of such investing governmental unit is located if no such bank has an office which is located within such governmental unit, or the appropriate eligible state or federally chartered savings and loan associations or federally chartered savings banks, which have offices located in the investing governmental unit or in the county or counties in which all or a part of such investing governmental unit is located if no such state or federally chartered savings and loan association or federally chartered savings bank has an office which is located within such governmental unit, cannot or will not make the investments authorized in paragraphs (b) or (c) of this section available to the investing governmental unit at interest rates equal to or greater than the investment rate, as defined in subsection (l) of K.S.A. 75-4201.and amendments thereto. K.S.A. 12-1675 as amended; Code 2001)

1-802**.** **PROCEDURES AND RESTRICTIONS**. The city clerk shall periodically report to the governing body as to the amount of money available for investment and the period of time such amounts will be available for investment, and shall submit such recommendations as deemed necessary for the efficient and safe management of city finances. The recommendations of the city clerk shall provide for an investment program which shall so limit the amounts invested and shall schedule the maturities of investments so that the city will, at all times, have sufficient moneys available on demand deposit to assure prompt payment of all city obligations. (Code 2001)

1-803. **CUSTODY AND SAFEKEEPING.** Securities purchased pursuant to this article shall be under the care of the city clerk, treasurer and mayor and shall be held in the custody of a state or national bank or trust company, or shall be kept by such officers in a safety deposit box of the city in a bank or trust company. Securities in the original or receipt form held in the custody of a bank or trust company shall be held in the name of the city, and their redemption, transfer, or withdrawal shall be permitted only upon the written instruction of the city officers. Securities not held in the custody of a bank or trust company shall be personally deposited by such officer in a safety deposit box in the name of the city in a bank or trust company, access to which shall be permitted only in the personal presence and under the signature of two of the above mentioned officers. (Code 2001)

1-804. **SALE OR TRANSFER**. If, in order to maintain sufficient moneys on demand deposit in any fund as provided in section 1-803, it becomes necessary to transfer or sell any securities of such funds, the officers specified in section 1-804 may transfer said securities to any other fund or funds in which there are temporarily idle moneys, or shall sell such securities, and for such purpose they shall have authority to make any necessary written direction, endorsement or assignment for and on behalf of the city. (Code 2001)

1-805. **INTERST ON TIME DEPOSITS**. The city clerk shall deposit the interest earned on invested idle funds in the general fund, unless otherwise required or authorized by law. (Code2001) Ref. See K.S.A. 12-1677 and amendments thereto.

CHAPTER II. ANIMAL CONTROL AND REGULATIONS

Article 1. General Provision
Article 2. Dogs
Article 3. Pit Bull Dogs
Article 4. Other Animals
Article 5. Chickens

ARTICLE 1. GENERAL PROVISION

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

(a) **Abandon** includes the leaving of an animal by its owner or other person responsible for its care or custody without making effective provisions for its proper care.

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

(c) **Animal Shelter** means the facility or facilities operated by the city or its authorized agents for the purpose of impounding or caring for animals under the authority of this chapter or state law.

(d) **At-large** means to be outside of a fence or other enclosure which restrains the animals to a particular premise or not under the control, by leash or lead, of the owner or other authorized person capable of restraining the animal. Animals tethered to a stationary object within range of public thoroughfares are deemed to be at-large.

(e) **Bite** means any actual or suspected abrasion, scratch, and puncture, tear, bruise, or piercing of the skin, caused by any animal, which is actually suspected of being contaminated or inoculated with the saliva from the animal, directly or indirectly, regardless of the health of the animal causing such bite.

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

(g) **Dangerous or Vicious Animal** means any animal deemed to be dangerous or vicious per section 2-113.

(h) **Dog** means any member of the species canis familiars, regardless of sex.

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

(j) **Harbor** means any person who shall allow any animals to habitually remain or lodge or to be fed within his or her home, store, yard, enclosure or place of business or any other premises where he or she resides or controls.

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

(l) **Humanely Euthanize** means the proper injection of a substance that quickly and painlessly terminates the life of an animal, or any other method approved by the American Veterinary Medical Association or the American Humane Society.

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

(n) **Kennel** means any establishment, commercial or otherwise, maintained for breeding, rearing, grooming, boarding or otherwise harboring in an enclosure in one location only, more than five dogs.

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

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

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

(r) **Owner** means the one who owns, or his or her employee, agent, or other competent person into whose charge an animal has been placed by the actual owner as described in subsection (q) above.

(s) **Vaccination** means an injection of a vaccine, approved by the State Board of Public Health and administered by a licensed veterinarian for the purpose of immunizing an animal against rabies.

(t) **Veterinarian** means a doctor of veterinary medicine licensed by the State of Kansas. (Code 2001)

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

(a) There is hereby created the position of animal control officer for the city and such officer shall be charged with the enforcement of this chapter. Any person employed by the city as an animal control officer and commissioned by the mayor of the city shall have such powers and authority as allowed by law in the enforcement of this chapter. All animal control officers shall be subject to the supervision and direction of the mayor of the city.

(b) Except as provided in subsection (c), it shall be the duty of the animal control officer to take up and impound all animals found in the city in violation of the provisions of this chapter.

(c) As an alternative to the provisions of subsection (b) of this section, any law enforcement officer or the animal control officer may issue a citation to the owner, harborer or keeper of an animal in violation of this chapter, and the person receiving the citation shall, within 10 days, appear in the municipal court of the city to answer the charged violation of this chapter. (Code 2001)

2-103. **SAME; CAPTURE/DESTRUCTION.** When deemed necessary by the law enforcement officers or the animal control officer for the health, safety and welfare of the residents of the city, such officers and/or their agents may:

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

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

(c) Use firearms or other suitable weapons to destroy any rabid animal, any vicious animal as defined in section 2-113, or any animal creating a nuisance as defined in section 2-109, where such animal is impossible or impractical to catch, capture or tranquilize. (Code 2001)

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

(a) The animal control officer or any law enforcement officer shall have the right of entry upon any private unenclosed lots or lands for the purpose of collecting any animal whose presence thereupon is a violation of this chapter.

(b) It shall be unlawful for any person to interfere with the animal control officer in the exercise of his or her duties. (Code 2001)

2-105. **CRUELTY TO ANIMALS.** It shall be unlawful for any person to:

(a) Willfully or maliciously kill, maim, disfigure, torture; beat with a stick, chain, or club or other object; mutilate, poison, burn or scald with any substance; or otherwise cruelly set upon any animals, except that reasonable force may be employed to drive off vicious animals;

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

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

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

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

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

(g) Abandon or leave any animal in any place with out making provisions for its proper care;

(h) These provisions shall not apply to the exceptions sanctioned under section 2-106.

In addition to the penalties provided in section 1-113 of this code, the municipal judge may order a person convicted of violation under this section to turn the animal involved over to a designated humane society. All such animals taken by the designated agency may be placed with another or more suitable person or destroyed humanely as soon thereafter as is conveniently possible. (Code 2001)

2-106. **SAME; EXCEPTIONS** The provisions of section 2-105 shall not apply to:

(a) Normal or accepted veterinary care;

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

(c) Killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of Chapter 32 or Chapter 47 of the K.S. A.;

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

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

(f) The humane killing of an animal by the animal control officer, a public health officer or a law enforcement officer in the performance of his or her official duty;

(g) The human killing of an unclaimed animal after three full business days following the receipt of such animal at an incorporated humane society shelter by the owner, operator or authorized agents of such establishments. (Code 2001)

2-107. **KEEPING ANIMALS** It shall be unlawful for the owner, lessee, occupant, or person in charge of any premises in the city to possess and maintain any animal or fowl within the city or permit to be maintained thereon any stable, shed, pen or other place where horses, mules, cattle, sheep, goats or swine, or undomesticated animals are kept. This provision shall not apply too:

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

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

(c) The maintaining of non-poisonous and non-vicious animals and fowl which are commonly kept as household pets, such as cats, hamsters, rabbits, parakeets, and comparable animals, when kept as household pets and in a safe and sanitary manner in accordance with section 2-111 of this chapter;

(d) The transporting of animals through the city by ordinary and customary means. (Code 2001)

2-108. **ANIMAL TRAPS**. It shall be unlawful for any person to use, place, set out, or deploy any animal trap above ground, which makes use of a spring gun, spring jaws, clamping devices, cutting or stabbing mechanism or any other device or trap; except that nothing herein contained shall prohibit the use of animal traps that are so designed to trap and hold animals without injuring the animals. (Code 2001)

2-109. **NUISANCE; ANIMAL ACTIVITIES PROHIBITED.** It shall be unlawful for the owner of any animal to keep or maintain such animal in the city so as to constitute a nuisance. For the purpose of this section, nuisance is defined as any animal which:

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

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

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

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

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

If a summons is issued charging violation of this provision, a subpoena shall also be issued to the complainant to testify to the nuisance under oath. (Code 2001)

2-110. **NOISY ANIMALS.** The keeping, or harboring of any animal which by loud, frequent and habitual barking, howling, yelping, mewing, roaring or screeching shall disturb the peace of any neighborhood is hereby prohibited. It shall be the duty of any person harboring or keeping such loud or noisy animal or animals to abate the condition, and if he or she fails to do so, the city may abate it by taking up, impounding and/or disposing of the animal at the expense of the owner. (Code 2001)

2-111. **ANIMAL CONFINES; SHELTERS**.

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

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

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

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

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

(f) All premises on which animals are kept shall be subject to inspection by the animal control officer, duly authorized law enforcement officer, or public health official. If the officer or official determines from such inspection that the premises are not being maintained in a clean and sanitary manner, he or she shall notify the owner of the animals in writing to correct the sanitation deficiencies within 24 hours after the notice is served on the owner. Any animal kept under any condition which could endanger the public or animal health or create a health nuisance may be impounded. Animals shall be released after fees are paid and cause for impoundment has been corrected. (Code 2001)

2-111A. **SAME; STOCKYARDS; COMMERCIAL HOLDING PENS.**

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

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

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

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

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

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

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

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

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

(i) Solid wastes accumulated from the cleaning of animal shelters and holding pens maintained by persons subject to a commercial, industrial or agricultural permit according to the terms of this chapter shall be stored on concrete slabs or other facilities, such as dirt lots on which is stockpiled manure with an exposed perimeter as approved by the health officer; provided that all solid waste shall be properly disposed of at least once each week or as may be approved by the health officer. (Code 2001)

2-112. **DEATH OF ANIMALS.** All dead animals shall be disposed of by the owner or keepers within 24 hours of the animals death, by burial, incineration in a facility approved by the animal control officer, by rendering or by other lawful means approved by the animal control officer. No dead animal shall be dumped on any public or private property. (Code 2001)

2-113. **VICIOUS ANIMALS.**

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

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

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

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

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

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

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

(1) The seriousness of the attack or bite;

(2) Past history of attacks or bites;

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

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

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

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

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

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

(f) **Release of:** If a complaint has been filed in the municipal court against the owner of an impounded animal for a charge under this section, the animal shall not be released except on the order of the municipal judge, who may also direct the owner to pay all impounding fees in addition to any penalties for violation of this chapter. The municipal Judge may, upon a finding that an animal is vicious or that it represents a clear and present danger to the citizens or to other animals in the community, order the animal to be destroyed in a humane manner by the animal shelter. Surrender of an animal by the owner thereof to the animal control officer does not relieve or render the owner immune from the decision of the court, nor to the fees and fines which may result from a violation of this section. (Code 2001)

2-114. **RUNNING AT LARGE** it shall be unlawful for any person to willfully allow any animal or fowl under his or her control to be or to run at large within the city. Any animal or fowl found at large shall be impounded as provided in section 2-115 or 2-207 (dogs) (Code 2001)

2-115 **IMPOUNDMENT OF RABIES SUSPECTS.**

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

(b) In lieu of the provision of subsection (a), the owner of any such animal may, at his or her own expense, take such animal to any duly qualified and licensed veterinarian in the city for observation. Such veterinarian shall report his or her finding in writing to the local health officer. If in the opinion of such veterinarian a microscopic examination is justified, then the animal shall be turned over to the animal control officer or any law enforcement officer to be killed and examination made by the state board of health.

(c) Any animal desired for observation by the local health officer under this section shall be delivered to the animal control officer or any law enforcement officer upon demand and shall not be withheld, hidden or harbored. Any person violating this provision shall be guilty of a violation of this code. Upon refusal of any person to so deliver such animal, the municipal judge shall cause a warrant to be issued for the arrest of such person, which warrant shall also provide for the surrender of the animal and shall be lawful authority for the apprehending and forcible taking of such animal. (Code 2001)

2-116. **ANIMALS BITTEN BY RABID ANIMALS.** Whenever a dog, cat or Other animal is bitten by a rabid animal or an animal later proves to have been rabid it shall be the duty of the owner of the animal that is bitten, to report the fact to the local health officer and/or the law enforcement office. It shall also be the duty of the owner of the bitten animal to either destroy or have his or her bitten animal destroyed unless:

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

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

(c) The bitten animal shall be released from confinement only upon written order from the local health officer, who declares the animal to be free of rabies: and

(d) If the animal is found to have contracted rabies during confinement, it shall be properly disposed of. (Code 2001)

2-117. **VEHICULAR ACCIDENTS INVOLVING ANIMALS.** Any person who as the operator of a motor vehicle strikes any animal shall stop at once and shall immediately report such injury or death to the owner of such animal, or in the event that the owner cannot be ascertained, and located, the operator shall at once report the accident to the animal control officer or any law enforcement officer. (Code 2001)

2-118. **EMERGENCY; PROCLAMATION.** The animal control officer is hereby authorized whenever in his or her opinion the danger to the public safety from rabid animals is made imminent to issue a proclamation ordering all person owning any animal in the city to confine the animal in a good and sufficient enclosure from which the animal cannot escape, or fasten such animal by means of a chain on the premises where the owner may reside, for such time as may be specified in such proclamation. Any animal not confined during such time may be disposed of wherever found by the animal control officer or law enforcement officer of the city. The owner of such animal shall be prosecuted for such violation thereof. (Code 2001)

2-119. **KENNEL LICENSES**

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

(b) Kennel licenses must be renewed annually. No kennel license shall be issued until an inspection certificate has been issued by the animal control officer certifying approval of the kennel and compliance with the applicable laws of the city and the state of Kansas, and a certificate by the zoning code enforcement officer has been issued certifying that the applicant for the kennel license is not violating zoning laws of the city. If the city clerk has not received any protest

against the kennel, the city clerk may issue a renewal of an existing kennel license at the same location without any report from the animal control officer and zoning code enforcement officer. If the animal control officer or the zoning code enforcement officer finds that the holder of any kennel license is violating any zoning law, or any other law of the State of Kansas, or of the city, or is maintaining the facility in a manner detrimental to the health, safety or peace of mind of any person, residing in the immediate vicinity, he or she shall report such fact to the city clerk, and the license shall not be renewed except after a public hearing before the governing body.

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

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

(1) The kennel is maintained in violation of any applicable laws of the State of Kansas, or of the city.

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

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

(e) The annual kennel license fee shall be $500. Payment of such license fee is in addition to, and not in lieu of, the dog license fees otherwise required under the chapter.

(f) This section shall not apply to and will not be construed to require a kennel license for a licensed veterinarian to operate an animal hospital. (Code 2001)

ARTICLE 2. DOGS

2-201. REGISTRATION AND VACCINATION REQUIRED; FEE.

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

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

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

(d) The city clerk shall collect an annual registration fee of $3 for each neutered male and for each spayed female dog, and $5 for each unneutered male dog and for each unspayed female dog.

(e) The registration year shall be from January 1st through December 31st of each year. The fee shall be payable before April 1 of each year.
Registration fees as enumerated above may be prorated for newly acquired dogs or for dogs owned by a person or persons moving to and establishing a home in the city during a calendar year. Every owner or harborer of a dog or dogs who shall fail to register the same prior to the 1st day of April of each year shall pay in addition to the registration fee herein will have a penalty fee of $10 added for the late registration. (Code 2001)

2-202. **DOG TAGS.** It shall be the duty of the city clerk or designated agent, upon a showing of current rabies immunization and receipt of the registration fee herein before required, to keep in a book suitable for the registration of dogs, the date, the name of the owner or keeper, the number of the registration and the amount paid for registration, and shall deliver to the owner or keeper of the dog a duplicate copy of the information above and a dog tag with the registration number and the registration year stamped on it, which shall be , by the owner or keeper, attached to the collar to be used on the dog so registered. When any tag has become lost during a registration period, the owner of the dog may request a duplicate tag for the remainder of the registration period. When so requested, the city clerk shall, upon presentation of the registration certificate, issue a duplicate of such tag upon the payment of a $1.00 fee. It shall be unlawful for any person to take off or remove the city registration tag from any dog belonging to another, or remove the strap or collar on which the same is fastened. (Code 2001)

2-203. **SAME; COUNTERFEIT TAG.** It shall be unlawful for any person to place On any dog a tag issued for any other dog or to make or use any false, forged or counterfeited tag or imitation thereof. (Code 2001)

2-204. **EVIDENCE OF VACCINATION.** It shall be unlawful for the owner of any dog kept within the city to fail to display a current certificate of immunization against rabies issued by an accredited veterinarian evidencing the vaccination of such dog within two years, when requested by the animal control officer or any law enforcement officer. (Code 2001)

2-205. **VISITING DOGS.** The provisions of this article with respect to registration shall not apply to any dog owned by any person visiting or temporarily remaining within the city for less than 30 days. However, such dogs shall be kept under restraint by the owner thereof at all times. (Code 2001)

2-206. **RUNNING AT LARGE; FINE.**

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

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

(c) The owner of any dog impounded for running at large for the first offense, pay a fine of $35 plus the board bill and must present a registration receipt and proof of rabies vaccination.

(d) For a second offense within a one year period, the owner or harborer shall pay a fine of $50 plus the boarding bill.

(e) For a third and all subsequent offenses within a one year period, the owner or harborer shall pay a fine of $75 plus the cost of the boarding bill. (Code 2001)

2-207. **IMPOUNDMENT; RECORD; NOTICE; REDEMPTION: MINIMUM FEE.**

(a) Any dog found in violation of the provisions of this article shall be subject to impoundment at a certified facility at the expense of the owner.

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

(c) No dog impounded under this section shall be disposed of until after expiration of a minimum of three full business days of custody during which the public has clear access to inspect and recover the dog through time periods ordinarily accepted as usual business hours. During such time of custody, the city shall attempt to notify the owner or custodian of any dog impounded by such facility if the owner or custodian is known or reasonably ascertainable. Such dog may at any time be released to the legal owner, moved to a veterinary hospital for treatment or observation, released in any manner, if such dog was a gift to the animal shelter, or euthanized by a licensed veterinarian if it appears to the veterinarian that the dog is diseased or disabled beyond recovery. If within three full business days the owner does not appear to claim the dog, then the dog may be sold, euthanized or otherwise disposed of.

(d) If at any time before the sale or destruction of any dog impounded under the provisions of this article, the owner of an impounded dog does appear and redeem the dog, it shall be turned over to the person claiming it upon payment of any impoundment fees or penalties plus the actual cost of impoundment, and shall not apply to any dog alleged as being vicious under section 2-113 or suspected of rabies under section 2-115 of this code.

(e) Any dog impounded may not be released without a current rabies vaccination and a current city license.

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

(g) The redemption of any dog impounded for a violation of any provision of this chapter shall be prima facie evidence of the violation of such provision by the person redeeming the dog. (Code 2001)

2-208. **DISPOSITION OF UNCLAIMED DOGS.**

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

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

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

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

(c) Nothing in this section shall be construed to require sterilization of a dog which is being held by the city and which may be claimed by its rightful owner within the holding period established in section 2-207. (Code 2001)

2-209. **CONFINEMENT OF DOGS IN HEAT.** Any unspayed female dog in the stage of estrus (heat) shall be confined during such period of time in a house, building or secure enclosure, and the area of enclosure shall be so constructed that no other dog or dogs may gain voluntary access to the confined animal except for purposes of planned breeding. Any animal that is in the state of estrus (heat) and that is not properly confined, or any such animal that is creating a neighborhood nuisances, shall be removed to a boarding kennel, to a veterinary hospital or to the animal shelter. All expenses incurred as a result of the confinement shall be paid by the owner. The owner of animals removed to the animal shelter shall be charged at the rate established from time to time by the animal shelter for routine confinement. (Code 2001)

2-210. **MUZZLING.** Whenever the mayor shall deem it necessary for the protection and welfare of the inhabitants of the city, he or she shall issue an order requiring all dogs kept within the city to be effectively muzzled for such length of time as may be specified in the order, to prevent them from biting or injuring persons or animals. Such order shall be published in the official newspaper of the city for such period of time as the mayor may deem necessary. (Code 2001)

ARTICLE 3. PIT BULL DOGS

2-301. **ANIMALS; KEEPING PROHIBITED.** It shall be unlawful to keep, harbor, own or in any way possess within the corporate limits of the city any pit bull dog.

2-302. PIT **BULL DOG DEFINED. Pit Bull Dog** is defined to mean:

(a) The bull terrier breed of dog;

(b) The Staffordshire bull terrier breed of dog;

(c) American pit bull terrier breed of dog;

(d) The American Staffordshire terrier breed of dog;

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

(f) Any dog which has the appearance and characteristics of being predominantly of the breeds of bull terrier, Staffordshire bull terrier, American pit bull terrier, American Staffordshire terrier;

(g) Any breed commonly known as pit bulls, pit bull dogs or pit bull terriers, or a combination of any of these breeds. (Code 2001)

2-303. VIOLATIONS **AND PENALTIES.** **A**ny person violating or permitting the Violation of any provision of this article shall be fined a sum not less than $100 and not more than $1000. In addition to the fine imposed the court may sentence the defendant to imprisonment in the county jail for a period not to exceed 30 days. In addition, the court shall order the registration of the subject pit bull revoked and the dog removed from the city. Should the defendant refuse to remove the dog from the city, the municipal court judge shall find the defendant owner in contempt and order the immediate confiscation and impoundment of the animal? Each day that a violation of this article continues shall be deemed a separate offense. In addition to the forgoing penalties, any person who violates this article shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this article. (Code 2001)

ARTICLE 4. OTHER ANIMALS

2-401. **EXOTIC ANIMALS.**

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

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

(1) All poisonous animals including rear fang snakes.
(2) Apes: Chimpanzees, gibbons, gorillas, orangutans, and siamangs.
(3) Baboons.
(4) Badgers.
(5) Bears.
(6) Bison.
(7) Bobcats.
(8) Cheetahs.
(9) Crocodilians, 30 inches in length or more.
(10) Constrictor snakes, six feet in length or more.
(11) Coyotes.
(12) Deer: includes all member of the deer family, for example white-tailed deer, elk, antelope and moose.
(13) Elephants.
(14) Game cocks and other fighting birds.
(15) Hippopotami.
(16) Hyenas.

(17) Jaguars.
(18) Leopards.
(19) Lions
(20) Lynxes.
(21) Monkeys.
(22) Ostriches.
(23) Pumas; also know as cougars, mountain lions and panthers.
(24) Raccoons.
(25) Rhinoceroses.
(26) Skunks.
(27) Tigers
(28) Wolves

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

(1) Their location conforms to the provision of the zoning ordinance of the city.

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

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

(d) The municipal judge shall have the authority to order any animal deemed vicious confined, destroyed or removed from the city. (Code 2001)

ARTICLE 5. CHICKENS

2-501. PERMIT. Any person wishing to keep chickens within the city limits of Alta Vista shall file an application to do so with the Public Officer. Such application will then be reviewed by the Public Officer who will either grant or deny the permit. If a permit is granted, the cost of such permit shall be $5.00. A permit shall allow the owner thereof to own no more than 6 chickens. Permits are non-transferable and shall not run with the land. Permits will be granted only for property whose primary use is for a single-family dwelling or a two-family dwelling. (Ord. 1071; Code 2017)

2-502. GENDER OF CHICKENS. Only female chickens shall be allowed within the city, with no limitation on species. (Ord. 1071; Code 2017)

2-503. HENHOUSE. Henhouses shall be provided for all chickens kept within the city and shall be designed to provide safe and healthy living conditions for the chickens while minimizing the adverse impacts to city residents. All henhouses shall be well maintained. All henhouse structures shall be enclosed on all sides and have a roof and doors. All henhouse access doors must be able to be shut and locked at night. Windows and vents must be covered with predator-proof and bird-proof wire containing less than one inch openings. (Ord. 1071; Code 2017)

2-504. CHICKEN PENS. Enclosed chicken pens shall be provided for all chickens kept within the city. Such pens must be made of sturdy wire fencing, aviary netting or solid roofing. (Ord 1071; Code 2017)

2-505 SANITARY CONDITIONS. All henhouse and chicken pens shall be kept clean, dry, and odor-free and in a sanitary condition at all times. All henhouses and chicken pens shall also be constructed and repaired to prevent rats, mice or other rodents from being underneath or within such structures. All feed and other items associated with the keeping of chickens that are likely to attract or to become infested with or infected by rats, mice or other rodents shall be protected so as to prevent rats, mice or other rodents from gaining access to or coming into contact with them. (Ord. 1071; Code 2017)

2-506. MANURE. Provisions must be made for the storage and removal of chicken manure. All stored manure shall be covered by a fully-enclosed structure with a roof or lid over the entire structure. All manure not properly stored and not sued for composting or fertilizing on the premises shall be removed. (Ord. 1071; Code 2017)

2-507. LOCATION OF CHICKENS; SLAUGHTERING. Chickens must be kept within a henhouse or a chicken pen at all times. No chickens may be slaughtered with the limits of the city. (Ord 1071; Code 2017)

2-508. LOCATION OF HEN HOUSES AND CHICKEN PENS. No henhouse or chicken pen shall be located closer than 10 feed to any property line of any adjacent property. All henhouses and chicken pens must be located at least 25 feet from the nearest neighbor's residence. All henhouses and chicken pens shall be located in the backyard of the residence at issue. "Backyard" as used in this section, shall mean that area of a lot that is located between the back of a house and the rear property line. (Ord 1071; Code 2017)

2-509. REVOCATION AND DENIAL OF PERMITS. A permit to keep chickens within the city may be denied or revoked by the public officer where there is risk to public health or safety or for any violation or failure to comply with any provisions of this article. Any denial or revocation shall be in writing and shall include notification of the right to appeal as set forth in this article. (Ord 1071; Code 2017)

2-510. NOTICE. Any person, corporation, partnership or association found by the public officer to be in violation of any provision of this article or any suck person, corporation, partnership or association who has been denied a permit or had a permit revoked, shall be served a notice of such violation, denial or revocation. The notice shall be served on the owner or agent of the owner of the property at issue by restricted mail or by personal service, or if the property is unoccupied and the owner is a nonresident of the city, then by mailing the notice by restricted mail to the last known address of the owner. (Ord 1071; Code 2017)

2-511. SAME; CONTENTS. The notice shall state the condition(s) which is (are) in violation of the provisions of this article. The notice shall also inform the person, corporation, partnership or association that:

(a) He, she or they shall have 10 days from the date of serving the notice to abate the condition(s) in violation of the provisions of this Article; or

(b) He, she or they have 10 days from the date of serving the notice to request a hearing before the governing body as provided by section 2-514;

(c) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by section 2-512 and/or abatement of the condition(s) by the city as provided in section 2-513.(Ord. 1071; Code 2017)

2-512. FAILURE TO COMPLY; PENALTY. Should the person, corporation, partnership or association fail to comply with the notice to abate the conditions that are in violation of this article or request a hearing, the public officer may file a complaint in the municipal court of the city against such person, corporation, partnership or association and upon conviction of any violation of provisions of this article, such person, corporation, partnership or association, as appropriate, may be fined in an amount not to exceed $100 or be imprisoned not to exceed 30 days or be both fined and imprisoned. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense. (Ord. 1071; Code 2017)

2-513. ABATEMENT. In addition to, or as alternative to prosecution as provided in section 2-512, the public officer may seek to remedy violations of this section in the following manner. If a person to whom a notice has been set pursuant to section 2-510 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in section 2-511, the public officer may present a resolution to the governing body for adoption authorizing the public officer or other agents of the city to abate the conditions causing the violation at the end of 10 days after passage of the resolution. The resolution shall further provide that the costs incurred by the city shall be charged against the lot or parcel of ground on which the violating conditions were located as provided in section 2-515. A copy of the resolution shall be served upon the person in violation in one of the following ways:

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

(Ord. 1071; Code 2017)

2-514. HEARING. If a hearing is requested within the 10 day period as proved in section 2-511, such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the public officer before the governing body. The hearing shall be held by the governing body as soon as possible after filing of the request therefore, and the person shall be advised by the city of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the governing body shall record it's determination of the matter by means of adopting a resolution and serving the resolution upon the person in the manner provided in section 2-513. (Ord. 1071; Code 2017)

2-515. COSTS ASSESSED. If the city abates any condition in violation of this article, the cost of abatement shall be charged against the lot or parcel of ground on which the violating conditions were located. The city clerk shall, at the time of certifying other taxes to the county clerk, certify the costs as provided in this section. The county clerk shall extend the same on the tax roll and it shall be collected by the country treasurer and paid to the city as other city taxes are collected and paid. (Ord. 1071; Code 2017)

CHAPTER III. BEVERAGES

Article 1. General Provision
Article 2. Cereal Malt Beverages
Article 3. Keg Regulations

ARTICLE 1. GENERAL PROVISION

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

(a) **Alcohol** means the product of distillation of any fermented liquid, whether rectified or diluted, whatever the origin thereof, and includes synthetic ethyl alcohol but does not include denatured alcohol or wood alcohol.

(b) **Alcoholic Liquor** means alcohol, spirits, wine, beer and every liquid, or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed as a beverage by a human being, but shall not include any cereal malt beverage.

(c) **Caterer** means an individual, partnership or corporation which sells alcoholic liquor by the individual drink, and provided services related to the serving thereof, on unlicensed premises which may be open to the public, but does not include a holder of a temporary permit selling alcoholic liquor in accordance with the terms of such permit.

(d) **Cereal Malt Beverages** means any fermented but un-distilled liquor brewed or made from malt or from a mixture of malt or malt substitute, but does not include any such liquor, which is more than 3.2 percent alcohol by weight.

(e) **Class A Club** means a premises which is owned or leased by a corporation, partnership, business trust or association and which is operated thereby as a bona fide nonprofit social, fraternal or war veterans' club, as determined by the State of Kansas, for the exclusive use of the corporation

(f) **Class B Club** means a premise operated for profit by a corporation, partnership individual, to which members of such club may resort for the consumption of food or alcoholic beverages and for entertainment.

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

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

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

(j) **Limited Retailer** means a person who has a license to sell cereal malt beverages at retail only in original and unopened containers and not for consumption on the premises.

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

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

(m) **Wholesaler or distributor** Any individuals, firms, co-partnerships, corporations and associations which sell or offer for sale any beverage referred to in this chapter, to person, co-partnerships, corporations and associations authorized by this chapter to sell cereal malt beverages at retail. (Code 2001)

3-102. **RESTRICTION ON LOCATION**

(a) No alcoholic liquor shall be sold or served by a person holding a license or permit from the city whose place of business or other premises are located within 300 feet of any church or school, said distance to be measured from the nearest property line of such church or school, to the nearest portion of the building occupied by the premises.

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

(c) No license or permit shall be issued for the sale of alcoholic liquor if the building or use does not meet the zoning ordinance requirements of the city or conflicts with other city laws, including building and health codes. (Code 2001)

3-103. **PUBLIC SALE; CONSUMPTION**

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

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

(c) For purposes of this section, the term "public place" shall include upon any street, public thoroughfare, public parking lot or any privately owned parking area made available to the public generally, within any parked or driven motor vehicle situated in any of the aforesaid places or upon any property owned by the state or any governmental subdivision thereof unless such property is leased to others under K.S.A. 12-1740 et seq. if the property is being used for hotel or motel purposes or purposes incidental thereto or is owned or operated by an airport authority created pursuant to Chapter 27 of the Kansas Statutes Annotated. (K.S.A. 41-719; 9-201; Code 2001)

3-104. **OPEN CONTAINER**.

(a) It shall be unlawful for any person to transport in any vehicle upon a highway or street any cereal malt beverage or alcoholic beverage unless such beverage is:

(1) In the original, unopened package or container, the seal of which has not been broken and from which the original cap or cork or other means of closure had not been removed;

(2) In the locked, rear trunk or rear compartment or any locked outside compartment which is not accessible to any person in the vehicle while it is in motion or;

(3) In the exclusive possession of a passenger in a vehicle which is a recreational vehicle as defined by K.S.A. 75-1212 or a bus as defined by K.S.A. 8-1406, who is not in the driving compartment of such vehicle or who is in a portion of such vehicle from which the driver is not directly accessible.

(b) As used in this section highway and street have meanings provided by K. S.A. 8-1424 and K.S. A. 8-1473 and amendments thereto. K.S.A. 8-1599; Code 2001)

3-105. **CONSUMPTION WHILE DRIVING**. It shall be unlawful for any person to consume any cereal malt beverage or alcoholic beverage while operating any vehicle upon any street or highway. (K.S.A. 41-1720; Code 2001)

3-106. **IDENTIFICATION CARD.**

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

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

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

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

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

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

(1) Lend any identification card to or knowingly permit the use of any identification card by any person under 21 years of age for use in the sale, purchase or consumption of any alcoholic liquor. (Code 2001)

(2) Lend any identification card to or knowingly permit the use of any identification card by any person under 21 years of age for use in the sale, purchase or consumption of any cereal malt beverage. (Code2001)

3-107. **UNDERAGE PURCHASER.**

(a) It shall be unlawful for any person under 21 years of age to purchase or attempt to purchase any cereal malt beverage.

(b) It shall be unlawful for any person, under 21 years of age to purchase or attempt to purchase any alcoholic liquor. (K.S.A. 41-2702 Code 2001)

ARTICLE 2. CEREAL MALT BEVERAGES

3-201. **LICENSE REQUIRED OF RETAILERS.**

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

(b) It shall be unlawful for any person, having a license to sell cereal malt beverages at retail only in the original and unopened containers and not for consumption on the premises, to sell any cereal malt beverage in any other manner. (K.S.A. Supp. 41-727; Code 2001)

3-202. **APPLICATION.** Any person desiring a license shall make an application to the governing body of the city and accompany the applications by the required license fee for each place of business for which the person desires the license. The application shall be verified, and upon a form prepared by the attorney general of the State of Kansas, and shall contain:

(a) The name and residence of the applicant and how long he or she has resided in the State of Kansas;

(b) The particular place for which a license is desired;

(c) The name of the owner of the premises upon which the place of business is located;

(d) The names and address of all persons who hold any financial interest in the particular place of business for which a license is desired.

(e) A statement that the applicant is a citizen of the United States and not less than 21 years of age and that he or she has not been convicted of a felony or any crime involving moral turpitude, or been adjudged guilty of drunkenness, or driving a motor vehicle while under the influence of intoxicating liquor or the violation of any other intoxicating liquor of any state or of the United States;

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

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

The applications shall be accompanied by a statement, signed by the applicant, authorizing any government agency to provide the city with any information pertinent to the application. One copy of such application shall immediately be transmitted to the law enforcement officer of the city for investigation of the applicant. It shall be the duty of the law enforcement officer to investigate such applicant to determine whether he or she is qualified as a licensee under the provisions of this chapter. The law enforcement officer shall report to the city clerk not later than five working days subsequent to the receipt of such application. The application shall be scheduled for consideration by the governing body at the earliest meeting consistent with current notification requirements (Code 2001)

3-202a. **LICENSE APPLICATION PROCEDURES.**

(a) All application for a new and renewed cereal malt beverage license shall be submitted to the city clerk 10 days in advance of the governing body meeting at which they may be considered.

(b) The city clerk's office shall notify the applicant of an existing license 30 days in advance of its expiration.

(c) The clerk's office shall provide copies of all applications to the law enforcement department, to the fire department, when they are received. The law enforcement department will run a records check of all applicants and the fire department and health department will inspect the premises in accord with chapters 7 & 8 of this code. The departments will then recommend approval, or disapproval, of applications within five working days of the department's receipt of the application.

(d) The governing body will not consider any application for a new or renewed license that has not been submitted 10 days in advance and been reviewed by the above city departments.

(e) An applicant who has not had a cereal malt beverage license in the city shall attend the governing body meeting when the application for a new license shall be considered. (Code 2001)

3-203. **LICENSE GRANTED; DENIED.**

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

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

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

(d) If the license shall be denied, the license fee shall be immediately returned to the person who has made application. (Code 2001)

3-204. **L ICENSE TO BE POSTED .** Each license shall be posted in a conspicuous place in the place of business for which the license is issued. (Code 2001)

3-205. **LICENSE, DISQUALIFICATION**. No license shall be issued to:

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

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

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

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

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

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

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

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

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

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

(i) A person whose spouse would be ineligible to receive a retailer's license for any reason other than citizenship, retailer residency requirements or age, except that this subsection (i) shall not apply in determining eligibility for a renewal license (Code 2001)

3-206. **RESTRICTION UPON LOCATION.**

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

(b) It shall be unlawful to sell or dispense at retail any cereal malt beverage at any place within the city limits that is within 300-foot radius of any church or school.

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

(d) The distance limitation of subsection (b) above shall not apply to any establishment holding a cereal malt beverage license issued by the city when the licensee has petitioned for and received a waiver of the distance limitation. The governing body shall grant such a wavier only following public notice and hearing. (K.S.S. 41-2704; Code 2001)

3-207. **LICENSE FEE.** The rules and regulations regarding license fees shall be as follows:

(a) General Retailer - for each place of business selling cereal malt beverage at retail , $ 55.00 per calendar year.

(b) Limited Retailer- for each place of business selling only at retail cereal malt beverages in original and unopened containers and not for consumption on the premises, $55.00 per calendar year.

Full amount of the license fee shall be required regardless of the time of the year in which the application is made, and the licensee shall only be authorized to operate under the license for the remainder of the calendar year in which the license is issued. (K.S.A. 41-2702; Code 2001)

3-208. **SUSPENSION OF LICENSE.** The law enforcement officer**,** upon five days written notice, shall have the authority to suspend such license for a period not to exceed 30 days, for any violation of the provisions of this chapter or other laws pertaining to cereal malt beverages, which violation does not in his or her judgment justify a recommendation of revocation. The licensee may appeal such order of suspension to the governing body within seven days from the date of such order. (Code 2001)

3-209. **LICENSE SUSPENSION/REVOCATION BY GOVERNING BODY.** The governing body of the city, upon five days written notice, to a person holding a license to sell cereal malt beverages shall permanently revoke or cause to be suspended for a period of not more than 30 days such license for any of the following reasons:

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

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

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

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

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

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

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

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

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

(j) The nonpayment of any license fees;

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

(l) The provision of subsections (f) and (i) shall not apply if such place of business is also currently licensed as a private club. (K.S.A. 41-2708; Code2001)

3-210. **SAME; APPEAL.** The licensee, within 20 days after the order of the governing body revoking any license, may appeal to the district court of Wabaunsee County and the district court shall proceed to hear such appeal as though such court had original jurisdiction in the matter. Any appeal taken under this section shall not suspend the order of revocation of the license of any licensee, nor shall any new license be issued to such person or any person acting for or on his or her behalf, for a period of six month thereafter (K.S.A. 41-2708; Code 2001)

3-211. **CHANGE OF LOCATION.** If a licensee desires to change the location of his or her place of business, he or she shall make an application to the governing body showing the same information relating to the proposed location as in the case of an original application. Such application shall be accompanied by a fee of $10.00. If the application is in proper form and the location is not in a prohibited zone and all other requirements relating to such place of business are met, a new license shall be issued for the new location for the balance of the year for which a current license is held by the licensee. (Code 2001)

3-212. **WHOLESALERS AND/OR DISTRIBUTORS.** It shall be unlawful for any wholesaler and/or distributor, his or her or its agents or employees, to sell and/or deliver cereal malt beverages within the city, to persons authorized under this article to sell the same within this city unless such wholesaler and/or distributor has first secured a license from the director of revenue, state commission of revenue and taxation of the State of Kansas authorizing such sales. (K.S.A. 41-307:307a; Code 2001)

3-213. **BUSINESS REGULATIONS.** It shall be the duty of every licensee to observe the following regulations.

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

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

(c) Except as provided by subsection (d), no cereal malt beverages may be sold or dispensed between the hours of 12:00 midnight and 6:00 a.m., or consumed between the hours of 12:00 a.m., and 6:00 a.m., or on Sunday, except in a place of business which is licensed to sell cereal malt beverages for consumption on the premises, which derives not less than 30 percent of its gross receipts from the sale of food for consumption on the licensed premises; closing hours for clubs shall conform to K.S.A. 14-2614 and any amendments thereto.

(d) Cereal malt beverages may be sold at anytime alcoholic liquor is allowed by law to be served on premises which are licensed pursuant to K.S.A. 41-2701 et.seq., and licensed as a club by the State Director of Alcoholic Beverage Control.

(e) Cereal Malt beverages in the original package are hereby expanded to include Sundays, except Easter Sunday. Such allowed Sunday sales shall be between the hours of 12:00 noon and 8:00 p. m. (Ord. 1022, 2006)

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

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

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

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

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

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

(l) No licensee or agent or employee of the licensee shall employ any person under 21 years of age in dispensing cereal malt beverages. No licensee shall employee any person who has been judged guilty of a felony. (Code 2001)

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

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

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

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

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

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

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

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

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

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

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

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

(g) As used in this section, the term premises means the premises licensed by the city as a cereal malt beverage establishment and such other areas, under the control of the licensee or his or her employee or employees, that are in such close proximity to the licensed premises that activities and conduct of persons within such other areas may be viewed by persons on or within the licensed premises. (Code 2001)

3-215. **SANITARY CONDITONS REQUIRED.** All parts of the licensed premises including furnishings and equipment shall be kept clean and in a sanitary condition, free from flies, rodents and vermin at all times. The licensed premises shall have at least one restroom for each sex easily accessible at all times to its patrons and employees. The restroom shall be equipped with at least one lavatory with hot and cold running water, be well lighted, and be furnished at all times with paper towels or other mechanical means of drying hands and face. Each restroom shall be provided with adequate toilet facilities which shall be of sanitary design and readily cleanable. The doors of all toilet rooms shall be self closing and toilet paper at all times shall be provided. Easily cleanable receptacles in toilet rooms for women shall be covered. The restrooms shall at all times be kept in a sanitary condition and free of offensive odors and shall be at all times subject to inspection by the city public officer or designee. (Code 2001)

ARTICLE 3. KEG REGULATIONS

3-301. **KEG REGISTRATION.** As used in this section, the words and phrases herein defined shall have the following meaning, unless the context otherwise requires:

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

(b) **CEREAL MALT BEVERAGE.** Any fermented but un-distilled liquor brewed or made from malt or from a mixture of malt or malt substitute, but does not include any such liquor which is more than 3.2 % alcohol by weights.

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

(d) **LEGAL AGE FOR CONSUMPTION**. 21 years of age.

(e) **PERSON.** Any natural person, corporation, partnership limited liability company, trust or association.

(f) **RETAILER.** A person who sells at retail or offers for sale at retail, beer or cereal malt beverage pursuant to a valid state and/or municipal license.

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

(h) **PROPER PROOF OF IDENTIFICATION**. A photographic motor vehicle operator's license, a valid passport, a United States military identification card, a Kansas photographic non-driver's identification card or, other official, or apparently official document, containing a photograph, signature, birth date of the person. (Code 2001)

3-302. **DUTIES OF RETAILER.** A retailer or retailer's employee or agent, prior to or at the time of any sale at retail of a keg, shall:

(a) Affix or cause to be affixed to the keg, a keg identification tag in accordance with the provision of section 3-304.

(b) Require the purchaser to exhibit proper proof of identification. If the purchaser fails to provide such proof of identification, the retailer shall refuse to sell the keg to such person.

(c) Require the purchaser to sign a declaration and receipt for the keg in the form provided for in this section 3-304.

(d) Record on the declaration the keg identification tag number, the date of the sale, the purchaser's name and address, and the type, number, and expiation date of the purchaser's identification.

(e) Inform the purchaser that any deposit paid by the purchaser for the keg, if required, shall be forfeited if the keg is returned without the original keg identification tag intact and readable.

(f) Require each purchaser of any such keg to acknowledge as part of the declaration that person under 21 are not of legal age for consumption of beer or cereal malt beverages and that the declaration is subject to inspection by law enforcement personnel.

(g) Provide a copy of the declaration and receipt to the purchaser. (Code 2001)

3-303. **DUTIES OF A PURCHASER**. Any person who purchases a keg, or the contents thereof shall:

(a) Be of legal age to purchase, possess, or use beer and cereal malt beverages.

(b) Provide proof of identification and such other information as the retailer may require in accordance with section 3-302.

(c) Sign a declaration and receipt in the form required by this section.

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

(e) Not remove, obliterate, or allow to be removed or obliterated, the keg identification tag required by this section.

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

3-304. **RETAILER; IDENTIFICATION TAGS AND DECLARATION AND RECEIPT FORMS.**

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

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

(c) Falsifying any information on a declaration and receipt shall be a violation of the section. (Code 2001)

3-305. **REFUND OF DEPOSIT** No retailer may refund any deposit upon return of a keg that:

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

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

3-306. **UNLAWFUL ACTS.** It shall be unlawful for any person to:

(a) Remove from a keg all or part of a keg identification tag required pursuant to this section;

(b**)** Deface a keg identification tag required by this section to the extent the information contained on the tag cannot be read;

(c) Fail to return a keg within 10 days if the due date; or

(d) Possess a keg that does not have the keg identification tag required by this section, provided that the provisions of this subsection shall not apply to any person when acting in the capacity of a manufacturer. Distributor or retailer, and subsection (d) shall not apply to any person who finds a discarded keg on such person's property. (Code 2001)

CHAPTER IV. BUILDINGS AND CONSTRUCTION

Article 1. Fire Limits
Article 2. Building Code
Article 3. Electrical Code
Article 4. Plumbing
Article 5. Moving Building
Article 6. Dangerous and Unfit Structures

ARTICLE 1. FIRE LIMITS

4-101. **FIRE LIMITS ESTABLISHED**. The following shall be and is hereby declared to be the fire limits of the city: The original town site, Langvardt 1st, 2nd and 3rd additions, Christian's addition, Anderson's 1st, 2nd, and 3rd additions, Dean's addition, Dierking addition, Morrett's addition, Ashlock addition, New York addition, Stice addition. Including the following legal boundaries; Starting at the NE Corner on Cable City Road of the Ashlock's addition going SW 1,043'; E 75'; S 75'; W 80'; SW 410'; E 790,; S 305'; W 50'; S 700'; W 335'; N 80'; W 40'; S 395'; W 950'; S 2484'; W1381'; N 1816'; W 275'; N 315'; W 357'; NE 414'; W 118'; NE 485'; W 75'; N 287'; W38'; N 105'; E 105'; NE1,228'; SE 100'; NE 780'; E 716'; S25'; E 755' to place of beginning as the corporate city limits of the city of Alta Vista, Wabaunsee County, Kansas. (Code 2009)

ARTICLE 2. BUILDLING CODE

4-201 **DEFINITIONS.** As used in this article, the words and phrases herein defined shall have the following meanings unless the context otherwise requires.

(a) Whenever the word municipality is used in the building code, it shall be held to mean the City of Alta Vista, Kansas;

(b) Whenever the term corporation counsel is used in the building code, it shall be held to mean the city attorney of the City of Alta Vista, Kansas.

(c) Whenever the term building official is used in the building code, it shall be held to mean the zoning administrator or his or her authorized designee. (Code 2001)

4-202 **BUILDING CODE**. The City of Alta Vista has hereby adopted and incorporated by reference, for the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment. Use and occupancy, location and maintenance of buildings and structures, the current Wabaunsee County Zoning and Planning regulations.

4-203. **BUILDING OFFICIAL; POWERS; DUTIES.**

(a) This and other articles of the city relating generally to building and structures shall be administered and enforce by the zoning administrator. The zoning administrator shall act as chief building official and may assume the responsibilities of or with the consent and approval of the governing body appoint a building inspector and such other assistants as may be advisable for the issuance of building permits and inspecting of building work.

(b) The zoning administrator shall prepare such application. Permit, inspection and record forms as may be required for the purposes of the article. The zoning administrator may make and promulgate the necessary rules and regulations to obtain conformity with this article pertaining to the making of applications for building permits, issuing of building permits and inspecting of buildings and building works. (Code 2001)

4-204. **CLARIFICATION;MODIFICATION**.

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

(b) The zoning administrator shall have power to modify any of the provisions of the building code upon application in writing by the owner or lessee or his or her authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code. In approving modifications, the zoning administrator shall see that the spirit of the code is observed, public safety secured and substantial justice done. The particulars of a modification when granted or allowed and the decision of the zoning administrator thereon shall be entered upon the records of the zoning administrator and a signed copy shall be furnished to the applicant. (Code 2001)

4-205. **BUILDING PERMIT REQUIRED; APPLICATION; APPROVAL**. It shall be unlawful for any person to hereafter erect or cause to be erected within the city **any building** or structure of **any kind** or enlarge or add to the outside dimension thereof, or relocate or remodel any building or structure within the city without a building permit being first obtained from the city clerk, after approval by the chief building official or his or her duly authorized assistant. The application for such permit shall be made and the permit obtained before work is commenced upon any building or structure or the foundation thereof, or before the removal of any building begins. (Code 2001)

4-206. **SAME; APPLICATION INFORMATION REQUIRED**.

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

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

(2) The location of the building or structure;

(3) The building work proposed;

(4) The outside dimensions of the building by floors and dimensions of the basement (if any);

(5) The class of occupancy;
(6) The class of construction;
(7) The kind of material to be used for walls, floors, ceilings, roofs, and foundations.
(8) The estimated cost of the work;
(9) The date work will commence;
(10) Expected date of completion;
(11) Name and address of contractor or contractors doing the work;
(12) Such other information as may be pertinent to the issuance of the required permit.

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

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

(d) Any permit issued under this section shall be valid and subsisting for a period of not more than six months from the date of issuance unless the permittee shall have commenced, within the period so limited, the building work authorized by such permit. Building work commenced for the purpose of this section shall mean the beginning of building work other than the preparation of plans or the staking out of the building location or the letting of a building contract. (Code 2001)

4-207. **SAME; PLANS AND SPECIFICATIONS**. Whenever an application for a building permit is made, the chief building official may, if he or she finds it necessary to determine whether building work described in the application will comply with the laws pertaining to such work, require that the applicant file a written description or drawing of the proposed building as may be prepared for the purpose. If such drawing or description is insufficient for the purposes of determining whether a permit should be issued, the building official may require the applicant to file complete architectural and engineering plans and specifications for such building, or any part thereof, as may be necessary for the inspector to determine compliance with this article. The filing of such plans and specifications and the approval thereof in connection with an application for a permit, or to inspect any building work for conformity with this article. (Code 2001)

4-208. **SAME; FEES.** The fee for a building permit shall be $15.00. The fee herein shall be paid to the city clerk upon obtaining a building permit and the same shall be credited to the general operating fund for the city. (Code 2001)

4-209. **SAME; POSTING.** A copy of the building permit shall be kept on the premises for public inspection during the performance of the work and until the completion of the same. Code 2001)

4-210. **CERTIFICATE OF APPROVAL.** Upon the completion of any work, under a building permit, the chief building official, the building inspector or his or her designee is authorized to issue a certificate of approval for the occupancy and use of the building or structure. The certificate shall show the number of inspections made and the orders and corrections required during the course of work. A copy of such certificate shall be given to the owner. (Code 2001)

4-211. **INSPECTIONS OF BUILDING; LAYOUT OF BUILDING; FOUNDATIONS AND FOOTINGS; NOTICE TO INSPECTOR**.

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

(b) Upon completion of the excavation for the building foundation and footings and the construction of the necessary forms thereof and before the foundation and footings are poured or laid, the official or inspector shall be notified as in the first case, and it shall be his or her duty to inspect all such work for conformity with laws respecting location of the building and foundations and footings.

(c) The building inspector shall during the course of all building make such other inspections as may be directed by the chief building official to be made during any successive stage of the construction or other work covered by a permit in order to secure compliance with laws pertaining thereto. (Code 2001)

4-212. **BUILDER OR BUILDING CONTRACTOR DEFINED**

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

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

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

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

(b) A builder or building contractor as defined shall not mean or include:

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

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

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

(4) Any property owner personally performing any improvements, alterations, or building construction within or upon his or her own residence and intended for his or her own personal use and permanent occupancy; provided, the owner shall satisfy the building official as to his or her ability to perform such work secure a permit, pay required fees, do work in accordance with this article, and apply for an inspection and receive approval. Personal building construction by an owner under this section shall be by himself, herself, for himself, or herself on his or her own residence, without compensation and no person shall be employed to assist him or her in any way on such work except a builder or building contractor licensed by the city. (Code 2001)

ARTICLE 3 PLUMBING CODE

4-301. **BUILDING OFFICIAL; AUTHORITY.** The superintendent of utilities or his or her authorized designee shall be responsible for the administration and enforcement of this article and be appointed as the inspector in accordance with section 4-203 of this chapter, which apply in a like manner to this article. (Code 2001)

4-302 **CONNECTION TO WATER SUPPLY**. It shall be unlawful for any person, firm or corporation to make connection to a supply of water for which an inspection is required, or which has been disconnected by the order of the plumbing inspector, until a certificate of approval has been issued by the plumbing inspector authorizing the connection and use of such plumbing or plumbing system. The plumbing inspector may, at his or her discretion, authorize a temporary connection. (Code 2001)

4-303 **CONDEMNATION; APPEAL**

(a) If in the judgment of the plumbing inspector, after inspection, the plumbing or plumbing system in any building are unsafe or dangerous to person or property, the inspector shall have the power to cause the plumbing or plumbing system to be disconnected from the supply of water and may, at his or her discretion, seal the control valves for the same in a closed or disconnected position such notice at the site and shall also notify the utilities serving the premises. Thereafter, it shall be unlawful for any person to cause or permit water to be supplied to the plumbing or plumbing system so sealed until they shall have been made safe and the inspector shall have issued a certificate of approval to that effect.

(b) When the plumbing inspector condemns all or part of any plumbing system, the owner may, within 10 days after receiving written notice thereof, file a petition in writing for review of the action of the plumbing inspector by the governing body, upon the receipt of which the governing body shall at once proceed to determine the facts, and their findings. (Code 2001)

4-304. **EXCAVATIONS.** When it appears that the laying or repairing of any water or sewer pipes or the making of any connection therewith shall require excavation in any street, alley or public way of the city or the cutting or removal of any pavement, curb or gutter or any sidewalk, during the course of such work, the application for a permit shall so state and describe the location and extent of the excavation, cutting or removal. Before the city clerk shall issue any permit for such work, the applicant shall pay any fee required by this code.

All excavations shall be barricaded and guarded as provided by the appropriate sections of this code in accordance with OSIA guidelines. Before any such excavation shall be backfilled, new plumbing work therein shall be inspected and the bottom of the excavation holding any sewer, drain or water pipe shall be filled, leveled and tamped as to properly support the pipe and permit proper drainage when carrying sewage, and the excavation shall be back filled and all paving, curbing, guttering or sidewalk shall be restored as near as possible to their last condition, subject always to the approval of the plumbing inspector or the superintendent of streets. (Code 2001)

4-305. **WORK BY PROPERTY OWNERS**. Nothing herein contained shall prohibit any property owner from personally installing plumbing piping or equipment within and upon his or her own residence and intended for his or her personal use and permanent occupancy provided, the owner shall satisfy the plumbing inspector as to his or her ability to install such piping or equipment, secure a permit, pay required fees, do work in accordance with this article, and apply for an inspection and receive approval. Personal installation by an owner under this section shall be by himself, herself, for himself or herself on his or her own residence, without compensation and no person shall be employed to assist him or her in any way on such work except a plumber or plumbing contractor licensed by the city, (Code 2001)

4-306. **APPROVED MATERIALS**. No plumbing materials, appliances or equipment shall be installed in the city unless they are in conformity with the provisions of this article and with the approved standards of construction for safety to life and property. Conformity of materials for plumbing materials, appliances and equipment to the standards of the Underwriters Laboratories, Inc. shall be prima facie evidence that the materials, devices, and appliances and equipment comply with the requirements of this article. (Code 2001)

4-307. **LIABILITY.** This article shall not be construed to relieve from or lessen the responsibility or liability of any party owning, operating, controlling or performing any plumbing construction for damages to persons or property caused by any defect therein, nor shall the city be held as assuming any such liability, by reason of the inspection or reinspection authorized herein, or the certificate of approval of any work or equipment authorized herein or by reason of any permit or license granted herein. (Code 2001)

ARTICLE 4. MOVING BUILDINGS

4-401. **BUILDING OFFICIAL; AUTHORITY**. The zoning administrator or his or her authorized designee shall be responsible for the administration and enforcement of this article and appointment of an inspector in accordance with sections 4-204:209 of this chapter, which apply in a like manner to this article. (Code 2001)

4-402. **PERMIT REQUIRED.** No person, firm or corporation shall move, haul, or transport any house, building, derrick, or other structure of the height when loaded for movement of 16 feet or more from the surface of the highway, road, street or alley, or a width of eight feet or more or which cannot be moved at a speed of four miles per hour or faster, upon, across or over any street, alley or sidewalk in this city without first obtaining a permit therefore. (K.S.A. 17-1914; Code 2001)

4-403. **SAME; APPLICATION FOR PERMIT.** All applications for permits specifying the day and hour said moving is to commence and the route through the city's streets over which the house, building, derrick or other structure shall be moved and stating whether it will be necessary to cut and move, raise, or in any way interfere with any wires, cables or other aerial equipment of any public or municipally owned utility, and the time and location that the applicant's moving operations shall necessitate the cutting, moving, raising or otherwise interfering with such aerial facilities. (K.S.A. 17-1915; Code 2001)

4-404. **SAME; BOND, INSURANCE REQUIRED**.

(a) It shall be the duty of any person at the time of making application for a permit as provided in this article to give a good and sufficient surety bond to the city, to be approved by the governing body, indemnifying the city against any loss or damage resulting from the failure of any such person to comply with the provisions of this article or for any damage or injury caused in moving any such house or structure. The bond herein shall be in the sum of $5,000, or cash may be deposited in lieu of such surety bond.

(b) A public liability insurance policy issued by an insurance company authorized to do business in the State of Kansas, in the amount of $100, 000 per person, $300,000 per accident as to personal injury, and $50,000 property damage may be permitted in lieu of a bond. (Code 2001)

4-405. **SAME; FEE.** Before any permit to move any house or structure is given under the provision of this article, the applicant shall pay a fee of not less than $5 to the city clerk; plus the additional cost for the time for any city crews involved in such moving. (Code 2001)

4-406. **ROUTE; DUTIES OF BUILDING OFFICIAL** The city clerk shall, upon filing of the above application, refer the same to the chief building official or his or her authorized designee to check the proposed route and determine if it is practical to move such house or other structure over the route proposed. If it shall appear that such route is not practical and another route may be used equally well with less danger to street and travel, then he or she may designate such other route as the one

to be used and shall notify any applicant of the same. The building official may also require the planking of any street, bridge or culvert or any part thereof to prevent damage thereto. It shall also be the duty of the chief building official or his or her authorized designee to inspect the progress of moving any house or other structure to see that the same is being moved in accordance with the provisions of this article. (Code 2001)

4-407. **NOTICE TO OWNERS.**

(a) Upon issuance of a moving permit the applicant shall give not less than 15 days written notice to any person owning or operating and wires, cables or other aerial equipment along the proposed route of the intent to move the structure, giving the time and location that the applicants moving operation shall necessitate the cutting, moving, raising or interfering of any wire, cables or other aerial equipment.

(b) The notice provision of subsection (a) shall not apply where the person owning or operating any wires, cables or other aerial equipment has waived their right to advance notice.

(c) Should the moving operation be delayed, the applicant shall give the owner or his or her agent not less than 24 hours advanced notice of the actual operation. (K.S.A. 17-1916; Code 2001)

4-408. **DUTY OF OWNERS**

(a) It shall be the duty of the person or the city owning or operating such poles or wires after the service of notice as provided herein, to furnish competent lineman or workmen to remove such poles, or raise or cut such wires as will be necessary to facilitate the moving of such house or structure. The necessary expense which is incurred thereby shall be paid by the holder of the moving permit.

(b) The owner of any wires, cables or other aerial equipment, after service of notice as provided in section 4-407, shall be liable to the permit holder for damages in an amount not to exceed $100 per day each day the owner shall fail or refuse to accommodate the permit holder's moving operations. (K.S.A. 17-1917; Code 2001)

4-409. **INTERFERING WITH POLES; WIRES.** It shall be unlawful for any person engaged in moving any house or other structure to raise, cut or in any way interfere with any wires or poles bearing wires or any other aerial equipment. (K. S.A. 17-1918; Code 2001)

4-410. **DISPLAY OF LANTERNS.** It shall be the duty of any person moving any of the structures mentioned in this article upon or across any street, alley or sidewalk or other public place, in this city, to display red lanterns thereon in such a manner as to show the extreme height and width thereof from sunset to sunrise. (Code 2001)

ARTICLE 5. DANGEROUS AND UNFIT STRUCTURES

4-501. **PURPOSE.** The governing body has found that there exist within the corporate limits of the city structures which are unfit for human use or habitation because of dilapidation, defects increasing the hazards of fire or accidents, structural defects or other conditions which render such structures unsafe, unsanitary or otherwise inimical to the general welfare of the city, or conditions which provide a general blight upon the neighborhood or surrounding properties. It is hereby deemed necessary by the governing body to require or cause the repair, closing or demolition or removal of such structures as provided in this article. (K.S.A. 12-175; Code 2001)

4-502. **DEFINITIONS.** For the purpose of this article, the following words and terms shall have the following meanings:

(a) **Enforcing officer** means the public officer or his or her authorized representative.

(b) **Structure** shall include any building, wall, superstructure or other structure which requires location on the ground, or is attached to something having a location on the ground. (K.S.A. 12-1750; Code 2001)

4-503. **ENFORCING OFFICER; DUTIES.** The enforcing officer is hereby authorized to exercise such powers as may be necessary to carryout the purposes of this article, including the following:

(a) Inspect any structure which appears to be unsafe, dangerous or unfit for human habitation;

(b) Have authority to enter upon premises at reasonable hours for the purpose of making such inspections. Entry shall be made so as to cause the least possible inconvenience to any person in possession of the structure. If entry is denied, the enforcing officer may seek an order for this purpose from a court of competent jurisdiction;

(c) Report all structures which he or she believes to be dangerous, unsafe or unfit for human habitation to the governing body.

(d) Receive petitions as provided in this article. (Code 2001)

4-504. **PROCEDURE; PETITION.** Whenever a petition is filed with the enforcing officer by at least five residents charging that any structure is dangerous, unsafe or unfit for human habitation, or whenever it appears to the enforcing officer on his or her own motion that any structure is dangerous, unsafe or unfit for human habitation, he or she shall, if his or her preliminary investigation discloses a basis for such charges, report such findings to the governing body. (Code 2001)

4-505. **SAME; NOTICE.** The governing body upon receiving a report as provided in section 4-504 shall by resolution fix a time and place at which the owner, the owner's agent, and lien holder of records and any occupant of the structure may appear and show cause why the structure should not be condemned and ordered repaired or demolished. (K.S.A. 12-1752; Code 2001)

4-506. **SAME; PUBLICATION.**

(a) The resolution shall be published once each week for two consecutive weeks on the same day of each week. At least 30 days shall elapse between the last publication and the date set for the hearing.

(b) A copy of the resolution shall be mailed by certified mail within three days after its first publication to each owner, agent, lien holder and occupant at the last know place of residence and shall be marked "Deliver to addressee only". (K.S.A. 12-1752; Code 2001)

4-507. **SAME; HEARING, ORDER**. If, after notice and hearing, the governing body determines that the structure under consideration is dangerous, unsafe or unfit for human use or habitation, it shall state in writing its findings of fact in support of such determination and shall cause the resolution to be published once in the official city newspaper and a copy mailed to the owner, agents, lien holder of record and occupants in the same manner provided for the notice of hearing. The resolution shall fix a reasonable time within which the repair or removal of such structure shall be commenced and a statement that if the owner of such structure fails to commence the repair or removal of such structure within the time stated or fails to diligently prosecute the same until the work is completed, the governing body will cause the structure to be razed and removed. (Code 2001)

4-508. **DUTY OF OWNER.** Whenever any structure within the city shall be found to be dangerous, unsafe or unfit for human use or habitation, it shall be the duty and obligation of the owner of the property to render the same secure and safe or to remove the same. (Code 2001)

4-509. **SAME; FAILURE TO COMPLY.**

(a) If, within the time specified in the order, the owner fails to comply with the order to repair, alter, improve or vacate the structure, the enforcing officer may cause the structure to be repaired, altered, improved, or to be vacated and closed.

(b) If, within the time specified in the order, the owner fails to comply with the order to remove or demolish the structure, the enforcing officer may cause the structure to be removed and demolished. (Code 2001)

45610. **SAME, MAKE SITE SAFE.** Upon removal of any structure, the owner shall fill any basement or other excavation located upon the premises and take any other action necessary to leave the premises in a safe condition. If the owner fails to take such action, the enforcing officer may proceed to make the site safe. (Code 2001)

4-511. **ASSESSMENT OF COSTS.**

(a) The cost to the city of any repairs, alterations, improvements, vacating, removal or demolition by the enforcing officer, including making the site safe, shall be reported to the city clerk.

(b) The city shall give notice to the owner of the structure by registered mail of the cost of removing the structure and making the premises safe and secure. The notice shall also state the payment of the cost is due and payable within 30 days following receipt of the notice.

(c) If the cost remain unpaid after 30 days following receipt of notice, the city clerk may sell any salvage from the structure and apply the proceeds or any necessary portion thereof to pay the cost of removing the structure and making the site safe. Any proceeds in excess of that required to recover the costs shall be paid to the owner of the premises upon which the structure was located.

(d) If the proceeds of the sale of salvage is insufficient to recover the cost, or if there is no salvage, the city clerk shall, at the time of certifying other city taxes, verify the unpaid portion of the costs to the county clerk who shall extend the same on the tax roll of the county.

4-512. **IMMEDIATE HAZARD.** When in the opinion of the governing body any structure is in such condition as to constitute an immediate hazard requiring immediate action to protect the public, the governing body may direct the enforcing officer to erect barricades or cause the property to be vacated, taken down, repaired, shored or otherwise made safe without delay. Such action may be taken without prior notice to or hearing of the owners, agents, lien holders and occupants. The cost of any action under this section shall be assessed against the property as provided in section 4-611. (K.S.A. 12-1756; Code 2001)

4-513. **APPEALS FROM ORDER.** Any person affected by an order issued by the governing body under this article may, within 30 days following service of the order, petition the district court of the county in which the structure is located for an injunction restraining the enforcing officer from carrying out the provisions of the order pending final disposition of the case. (Code 2001)

4-514. **SCOPE OF ARTICLE.** Nothing in this article shall be construed to abrogate or impair the powers of the courts or of any department of the city to enforce any provisions of its charter or its ordinances or regulations, not to prevent or punish violations thereof; and the powers conferred by this article shall be in addition to and supplemental to the powers conferred by the constitution, and other law or ordinance. Nothing in this article shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise or to exercise those powers granted specifically by K.S.A. 12-1750:L1756. (Code 2001)

CHAPTER V. BUSINESS REGULATIONS

.Article 1. General Regulations and Licenses
Article 2. Solicitors, Canvassers, Peddlers

ARTICLE 1. GENERAL PROVISIONS

[RESERVED]

ARTICLE 2. SOLICITORS, CANVASSERS, PEDDLERS OR TRANSIENT MERCHANTS

5-201 **DEFINITIONS.**

For the purpose of this article, the following worlds shall be considered to have the following meanings:

(a) **Peddler** - Any person not having a permanent established place of business in the city traveling from place to place, from house to house, or from street to street, by foot or by any vehicle, carrying or conveying goods, wares, merchandise or services offering them for sale or delivering the same to purchasers or soliciting orders and purchases for the sale of goods, wares, merchandise or services, for later delivery, or who, without traveling from place to place, shall sell or offer the same for sale from any temporary stand, or from any wagon, cart or vehicle parked or standing in the city.

(b) **Canvasser or Solicitor** – Any individual traveling from place to place within the city for the purpose of contracting individuals and requesting donations, or offering for sale any token item, whose intrinsic value does not equal the amount of the required donation or payment.

5-202. **LICENSE REQUIRED.**

It shall be unlawful for any person to engage in any of the activities of a peddler, canvasser or solicitor, as defined in the preceding sections of this article, within the corporate limits of the city, without them having an unrevoked and unexpired license therefore in his or her possession and issued by the city clerk. Provided, that such city permit shall not be required if such person has in his or her possession an unrevoked and unexpired permit issued by Wabaunsee County, Kansas, authorizing such activities.

5-203 **SAME: APPLICATION REQUIRED**. Before the city clerk may issue any license required by this article, he or she shall require a sworn application in writing prepared in duplicate on a form to be supplied by the city clerk which shall give the following information:

(a) Name of applicant;

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

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

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

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

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

5-204 **INVESTIGATION AND ISSUANCE.**

(a) Upon receipt of the above application from an applicant, the city clerk shall refer the same to the law enforcement officer who shall cause an investigation of the facts stated therein to be made within not to exceed five days.

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

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

5-205. **LICENSE FEE; TIME LIMITS; EXEMPTIONS**

(a) The fee for the license required pursuant to section 5-202 shall be in such amount as the governing body of the city may establish by resolution from time to time.

(b) Any such license granted upon application as required hereinabove shall be limited to and effective only on the days set out in the license. Licenses may be issued for not to exceed six months. Solicitation or sales by any peddler, solicitor or canvasser shall be conducted only between the hours of 8:00 a.m. and sunset.

(c) No license fee shall be required of: (1) any person selling products of the farm or orchard actually produced by the seller; (2) any businesses, trades or occupations which are part of fairs or celebrations sponsored by the city or any other governmental subdivision. The governing body may exempt from payment of such licensing fee any charitable organization soliciting contribution or offering goods or services for sale.

5-206 **DENIAL, REVOCATION OR SUSPENSION OF LICENSE; NOTICE**

The city clerk or law enforcement officer may deny any application or may revoke or suspend for a period of not to exceed 30 days any license issued under this article, for any of the following causes;

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

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

(c) Any violation of this article.

(d) Conducting a business in an unlawful manner or in such manner as to constitute a breach of the peace or to constitute a menace to the health, safely or general welfare of the city.

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

(f) Notice of the denial, revocation or suspension of a license shall be given in writing to the applicant or mailed to his or her last know address and the city clerk shall set forth the grounds of such denial, revocation or suspension.

5-207**. APPEALS TO GOVERNING BODY.**

(a) Any person aggrieved by the action of the law enforcement officer or city clerk in the denial of an application or revocation or suspension of a license as provided in the article, shall have the right of appeal to the governing body.

(b) Such appeal shall be taken by filing a statement with the city clerk setting forth the grounds for appeal.

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

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

5-208 **USE OF STREETS AND SIDEWALKS**.

Except when authorized in writing by the governing body, no peddler, solicitor or canvasser or any other person shall have exclusive right to any location in the public streets for the purpose of selling or soliciting sales, nor shall any person be permitted a stationary location in the public streets, nor shall any person be permitted to operate in the sidewalks and streets in any congested area where his or her operations might impede or inconvenience the public.

5-209 **REGULATIONS.**

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

(b) It shall be unlawful for any peddler, solicitor or canvasser who enters upon property owned or leased by another to willfully refuse to leave such property after having been notified to leave by the owner or possessor thereof.

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

5-210 **DISTUBING THE PEACE.**

Except when authorized in writing by the governing body, no license nor any person in his or her behalf, shall use any sound amplifying device, upon any public places of the city or upon any private premises in the city for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell.

5-211 **PENALTIES FOR VIOLATION.**

Any person found guilty in the municipal court of violating any provision of this article shall be fined in the amount of $100.00 per occurrence and/or shall be ordered to be confined a term to be fixed by the court, not to exceed five days.

CHAPTER VI. ELECTIONS

ARTICLE 1. CITY ELECTION

6-101. **CONDUCT OF ELECTION**. The election of city officials shall be conducted in all respects as provided by the laws of Kansas governing the holding of city elections. (K.S.A. 25-2101 et seq.; Code 2001)

6-102. **QUALIFICATIONS.**

(a) The candidates for office of Mayor and Council member of the City of Alta Vista shall be a citizen of the United State and a qualified elector of the city.

(b) Neither the mayor nor any council member shall be required to give bond prior to entering upon his or her duties. (Code 1985)

6-103. **FILING DEADLINE FOR CANDIDATES**. The filing deadline for all city elections shall be 12:00 o'clock noon of the Tuesday preceding by ten (10) weeks the first Tuesday in April (K.S.A. 25-2109; Code 1985)

6-104. **CANDIDATES; PETITIONS; FILING FEE**. Any person desiring to become a candidate for city office shall file with the county election officer or the city clerk, before the filing deadline, a statement of candidacy furnished by the county election officer. The city clerk, upon receiving any filing by a candidate under this section, shall record it and transmit it, together with the filing fee or petition, to the county election officer within three business days. Each such filing shall be accompanied by a filing fee of five dollars ($5.00). In lieu of such filing fee, the candidate may submit a petition signed by a number of such qualified electors of the city or by a number of such qualified electors equal to not less than 10 percent (10%) of the ballots cast at the last general city election, which ever is less. (K.S.A. 25-2110; Code 1985)

6-105. **ELECTIONS; WHEN HELD; OFFICERS ELECTED**. A regular city election shall be held on the first Tuesday of April in each odd numbered year. There shall be elected a Mayor and two or three (depending on the number of terms expiring council members.) (C.O. NO.1; 5-101; Code 2001)

6-106. **HOURS OF VOTING**. At all city elections the polls shall be open at 7:00 a.m. and close at 7:00 p.m., unless different hours are set and publicly announced by the county election officer. (K.S.A. 25-2111, Code 2001)

6-107. **TERMS OF OFFICE; VOTES REQUIRED, TIE VOTE.** The mayor and members of the council shall be elected for terms of four years. The two or three (as the case may be) candidates for the council receiving the highest number of votes shall be declared elected. Whenever there is a tie vote for two or more candidates and it is necessary to determine which candidate receives the office, the winner shall be determined by lot by the board of canvassers. (C.O. No. 1; Code 2001)

6-108. **CERTIFICATION OF RESULTS; BEGINNING OF TERMS**.
The county clerk shall, within five days after the canvass of the returns and determination by the board of canvassers the person elected, shall deliver to the city clerk a letter of certification of election. The terms of the officers in April shall begin at the first regular meeting of the council in May following the election and they shall qualify by taking the oath of office and otherwise, if there be other qualifications prescribed, at any time after receiving notice of election and before or at the beginning of the meeting. (C.O. No. 1; Code 2001)

6-109. **FAILURE TO QUALIFY; VACANCY.** If any person elected to the council does not qualify within the required time, he or she shall be deemed to have refused to accept the office and a vacancy shall exist. In case of a vacancy in the council, resignation, death, removal from the city, removal from the office, or becoming mayor by reason of being president of the council when a vacancy occurs in the office of mayor; the mayor shall appoint, with the consent of a majority of the remaining council members, some suitable elector of the city to fill the vacancy until the expiration of the term of such office. (Code 5-104; 1985)

6-110. **CERTIFICATION OF CITY OFFICES TO BE FILLED.** The city clerk shall certify to the county election officer a list of all city offices to be voted upon at each city election not later than January 1 of every year that such city has a city election. (K.S.A. 25-2118; Code 1985)

CHAPTER VII. FIRE

Article 1. Fire Department
Article 2. Fire Prevention
Article 3. Fireworks
Article 4. Emergency Service Agreement

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ARTICLE 1. FIRE DEPARTMENT

7-101. **CITY FIRE DEPARTMENT ESTABLISHED**. The fire department of the city is hereby established and the department shall be organized to consist of a fire chief, an assistant fire chief and not less then 10 nor more than 25 firefighters. Members of the fire department shall be appointed by the mayor and confirmed by the council. (Code 2001)

7-102. **MEMBERSHIP; FIRE DRILL**. Members of the fire department shall all be volunteers. They shall meet at least once each month for practice and drill. The chief of the fire department shall keep a record of attendance of such meetings. Any member who shall fail to attend three meetings per calendar year shall automatically become expelled from membership. (Code 2001)

7-103. **SUPERVISION OF DEPARTMENT**. The chief of the fire department shall be under the supervision of the mayor and shall have immediate superintendence and control over and be responsible for the care and condition of the fire apparatus and equipment. It shall be the chief's duty to see that all such apparatus and equipment is ready at all times for immediate use. It shall also be the chief's duty to submit a written report as to the condition of all fire apparatus and equipment to the governing body at their first meeting in October of each year. (Code 2001)

7-104. **FIRE CHIEF; POWERS.**

(a) The fire chief shall be responsible for the discipline of the members and is hereby given authority to suspend or expel any member for refusal to obey orders or for misconduct or failure to do his or her duty at a fire.

(b) The chief shall also have the right to summon any and all persons present to aid in extinguishing a fire or to aid in removing personal property from any building on fire or in danger thereof and in guarding the same.

(c) At fires the chief shall have full power, control and command of all persons present and shall direct the use of the fire apparatus and equipment, and command the fire fighters in the discharge of their duties. He or she shall take such measures, as he or she shall deem proper and necessary in the preservation and protection of property and extinguishing of fires. (Code 2001)

7-105. **SAME; RECORDS**. The chief of the fire department shall keep in convenient form a complete record of all fires. Such information shall include the time and location, construction of building, owner, occupancy, how extinguished, value of building and contents, loss on building and contents, insurance on building and contents, members responding to the alarm, and any other information deemed advisable. (Code 2001)

7-106. **ASSISTANT CHIEF.** In the absence of the chief, the assistant fire chief shall perform all the duties and have all the authority and responsibility of the chief as conferred by this chapter. (Code 2001)

7-107. **PRIVATE USE OF FIRE EQUIPMENT**. It shall be unlawful for any person or persons to take away or use any fire apparatus or equipment for any private purpose or for any person willfully and without proper authority to remove, take away, keep or conceal any tool, appliance, equipment or other article used in any way by the fire department. (Code 2001)

7-108. **FIRE EQUIPMENT; EMERGENCY RIGHT-OF-WAY AND USE.**

(a) All fire apparatus and equipment is hereby given and granted the exclusive right-of-way over and through all streets, avenues, alleys and public thoroughfares in the city while in route to fires or in response to any alarm, and it shall be unlawful for any person or persons to in any manner obstruct or hinder the apparatus or equipment.

(b) All emergency vehicles of the fire department, while proceeding on official business, shall be operated in strict ordinance with the requirements of the Kansas Statutes regarding the operation of emergency vehicles shall familiarize himself or herself with the requirements of the law and govern himself or herself accordingly. Any operator violating the provisions of the state law shall be liable for disciplinary action. (Code 2001)

7-109. **SAME; FIRE HOSE**. It shall be unlawful for any person or persons to drive any vehicle over fire hose laid on any street, alley or lot. This section shall not apply to any apparatus or vehicle being driven by members of the fire department. (Code 2001)

7-110. **OBSTRUCTION OF FIRE HYDRANT**. t shall be unlawful for any person to place or cause to be placed upon or about any fire hydrant any rubbish, building material, fence or other obstruction of any character, or in any manner obstruct, hinder, or delay the fire department in the performance of its duties in case of fire. Nor shall any person fasten to any fire hydrant any guy rope or brace, nor stand any vehicle within 15 feet of any such hydrant. (Code 2001)

7-111. **FALSE ALARM**. It shall be unlawful for any person to knowingly make or sound or cause to be made or sounded, or by any other means, any false alarm. (Code 2001)

ARTICLE 2. FIRE PREVENTION

7-201**. OPEN BURNING**.

(a) The following described tract in Wabaunsee County, Kansas:

Beginning at PT 30E & 1970 SELY ALG CO RD R/W from NW Corner of SE ¼, NELY 550, ELY 158 to W RR R/W, SWLY ALG RR R/W SEC-TWP-RGN 35-13-08E. Is hereby designated as a site to be used for the burning of trees and brush generated from within the corporate boundary of the city herein called the burn site.

(b) It shall be unlawful for any person, firm or corporation to deposit any material at the burn site except trees, limbs and brush actually generated from growth within the city limits, No other type material, even though combustible, shall ever be deposited at such site.

(c) The burn site shall be secured by a lock mechanism under the exclusive control of personnel employed by the city. Before any person, firm or corporation deposits any lawfully depositable materials at the burn site, permission must be obtained from city personnel. City personnel shall have the right to inspect the material proposed to be deposited before granting permission to deposit.

(d) All burning at such site shall be done only by personnel employed by the city and under conditions and regulations promulgated by The Kansas Department of Health and Environment. (Ordinance 1031; 2007)

7-202. **RULES AND FINES FOR OPEN BURNING.**

(a) FIRES ON PUBLIC PROPERTY: It shall be unlawful for any person to kindle or maintain any bonfire or any rubbish fire or authorize any such fire to be kindled or maintained on or in any public sidewalk, street, alley, road or other public ground, except in authorized fireplaces in park location unless permission from the fire department shall have first been obtained.

(b) FIRES ON PRIVATE PROPERTY: No person shall kindle or maintain any bonfire, rubbish fire or trash fire or permit any such fire to be kindled or maintained on any private property within the established city limits with the exception of approved fire pits or approved barbeque grills unless permission from the fire department shall have first been obtained. For clarity, a "fire pit" includes belowground pits, freestanding fireplaces, and portable devices intended to contain and control outdoor fires. All belowground fire pits shall be at least four inches in depth and shall be surrounded on the outside, aboveground, by a non-combustible material such as steel, brick, or masonry. The fire pit cannot exceed three feet in diameter, nor may the fire pile exceed two feet in height. Fire pits may be used in accordance with the manufacturer's specifications and these regulations:

- Only natural firewood/commercial logs may be burned. Burning of lumber, pallets, scrap wood, tree trimmings, leaves, yard waste, paper, cardboard, garbage and similar items is not permitted.
- All fire pits must be located away from any structure or combustible material. Belowground fire pits and freestanding fireplaces must be located a minimum of 25 feet away from any structure or combustible material. Portable fire pits must be located a minimum of 15 feet away from any structure or combustible material.
- The fire must be constantly attended and supervised until the fire has been completely extinguished.
- A portable fire extinguisher or other approved extinguishing equipment, such as a garden hose, must be readily available.

(c) PENALTY: Any person or persons violating the provisions of this ordinance shall upon conviction, be fined not less than ten dollars ($10.00) or more than one hundred dollars. ($100.00) (Ordinance No. 1034; 2007)

7-203. **ACCUMULATION OF RUBBISH AND TRASH**. It shall be unlawful for any person to allow to accumulate or to keep in any part of any building or outside of and adjacent to any building or in any alley, sidewalk, street or premises within 30 feet of any building any rubbish, trash, waste paper, excelsior, empty boxes, barrels or other combustibles which shall constitute a fire hazard. (Code 2001)

7-204. **STACKING OF HAY OR STRAW.** It shall be unlawful for any person to deposit, stack or store any hay or straw within 500 feet of any building located inside the fire limits of the city. (Code 2001)

7-205. **KEEPING OF PACKING MATERIALS**. It shall be unlawful to keep excelsior or other packing material in any other than metal or wood metal line boxes or bins having self closing or automatic covers. All refuse and trash from rooms where packing or unpacking is done shall be removed daily. (Code 2001)

7-206. **STORAGE OF ASHES**. It shall be unlawful to store ashes inside of any non fireproof building unless they are stored in a noncombustible container or receptacle, and a clearance of at least five feet shall be maintained between such container or receptacle and any combustible materials not placed therein. Ashes shall not be stored outside of any building in wooden, plastic, or paper product receptacles or dumped in contact with or in close proximity to any combustible materials. (Code 2001)

7-207. **FILLING GASOLINE TANKS OF MOTOR VEHICLES**. The engines of motor vehicles shall be stopped when the gasoline tanks of such vehicles are being filled with gasoline at service stations or other places where gasoline is supplied to motor vehicles. The driver or person in control of such vehicle when the gasoline tank of same is being filled who refuses, neglects or fails to stop the engine of such vehicle shall likewise be guilty of a violation of this code. (Code 2001)

7-208. **FIRE HAZARDS GENERALLY**. It is unlawful for any person to cause or create anywhere within the city, or to permit on any premises under his or her control, any situation or condition that is conductive to or likely to cause or permit the outbreak of fire or the spreading of fire. Any situation or condition conductive to the outbreak of or spreading of fire is declared to be a fire hazard. The violation of or failure to comply with any law pertaining to the storage, handling or use of inflammable oils, explosives, liquefied petroleum gases, or fertilizers and all wires and other conductors charged with electricity, is declared to be a fire hazard. The placing of stools, chairs or any other obstruction in the aisles, hallways, doorway, or exit of any theater, public hall, auditorium, church or other
place assemblage, or the failure to provide any such place of public assemblage to be a fire hazard. The obstruction of any street, avenue, alley, fire hydrant or any other condition that might delay the fire department in fighting fire is declared to be unlawful. (Code 2001)

7-209. **SAME; INSPECTIONS TO DISCOVER.** It shall be the duty of the fire chief to inspect or cause to be inspected by fire department officers or members, as often as may be necessary all buildings, particularly all mercantile buildings, manufacturing plants, warehouses, garages, hotels, boarding houses, rooming houses, theaters, auditoriums and all places of public assemblage, for the purpose of discovering the violation of any fire preventive law or any fire hazard and ascertaining and causing to be corrected any conditions liable to cause fires and to see that all places of public assemblage, hotels and rooming houses have sufficient and unobstructed facilities for escape there from in case of fire. (Code 2001)

7-210. **ABATEMENT OF FIRE HAZARDS; ISSUING ORDER**. Whenever any officer or member of the fire department shall find or discover any fire hazard or shall find in any building or upon any premises combustible or explosive material or dangerous accumulation of rubbish or unnecessary accumulation of paper, boxes, shavings or any other inflammable material, so situated as to endanger property by the probability of fire, or shall find or discover any violation of this chapter or any other law hazardous to public safely from fires, the fire chief shall order the fire hazard or danger from the fire forthwith abated and remedied and such order shall be complied with immediately by the owner or occupant of such buildings or premises. If the hazard or condition ordered abated and remedied is a violation of, or a failure to comply with any law, the fire chief shall report the matter to the city attorney and he or she shall, if he or she deems it advisable, prosecuted the offender. (Code 2001)

7-211. **SAME; SERVICE OF ORDER; RECORDS.** Any order made under section 7-213 shall be in writing and may be served personally upon the owner or occupant of the premises or by leaving it with any person in charge of the premises or if the premises are unoccupied and the owner is a nonresident of the city, then by mailing a copy to the owner's last known post-office address. One notice to either the occupant or owner shall be sufficient. The fire chief shall keep a record of and copies of all such orders and notices and shall follow up such notices at the expiration of the time for compliance therewith and when complied with make proper entry, and if not complied with, make proper entry, and if not complied with, file complaint with the municipal court against the property owner and/or occupant. (Code 2001)

ARTICLE 3. FIREWORKS

7-301. **FIREWORKS DEFINED**. For purpose of this article, the term fireworks shall mean those items as defined by the rules and regulations of the Kansas State Fire Marshall, and shall include but not be limited to: firecrackers, torpedoes, sparklers, roman candles, sky rockets, pin wheels, cap or toy pistols (except such pistols or any like device designed to discharge paper caps containing not more then .25 grains of explosive mixture), canes, bombs, cannons or other like devices and all classes of fireworks that may be shot into the air or propelled over the ground by explosive discharges or any devise using blank cartridges. (Code 2001)

7-302. **FIREWORKS PROHIBITED**.

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

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

(1) Toy paper caps containing not more than .25 of a grain of explosive composition per cap;

(2) The manufacture, storage, sale or authorized use of signals necessary for the safe operation of railroads or other classes of public or private transportation;

(3) The military or naval forces of the United States or of this state while in the performance of official duty;

(4) Law enforcement officers while in the performance of official duty; or

(5) The sale or use of blank cartridges for ceremonial, theatrical or athletic events. (Code 2001)

7-303. **SAME: EXCEPTIONS; DISCHAGES.**

(a) Section 7-302 of this article shall not apply to the firing or discharge of fireworks in the city on the third and fourth days of July in each year and when the Fourth of July falls on Sunday, on the fifth day of July and then only between the hours of 9:00 a.m. and 11:30 p.m. of each day.

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

(c) It shall be unlawful for any person, firm or corporation to give any public display of fireworks without having first obtained a permit thereof. (Code 2001)

7-304. **SAME: EXCEPTION; SALE OF FIREWORKS**. Any person who has first obtained a valid permit to sell fireworks within the city may do so between the hours of 9:00 a.m. and 11:30 p.m. commencing June 27th and through July 5th of each year. (Code 2001)

7-305. **APPROVED FIREWORKS; BOTTLE ROCKETS PROHIBITED**.

(a) All fireworks offered for sale and discharged within the city shall be of a type that has been tested and approved for sale and use within the state by the state fire marshal.

(b) Bottle rockets and other similar self-propelled firework or fireworks devices consisting of a tube and attached guiding stock or rod shall not be sold or discharged in the city. (Code 2001)

7-306. **DISCHARGED ON STREETS AND PUBLIC PROPERTY PROHIBITED**.

It shall be unlawful for any person to discharge, ignite or fire any fireworks upon any public street, alley or avenue or in any park or public place within the city. (Code 2001)

7-307. **THROWING PROHIBITED**. It shall be unlawful for any person to throw, cast or propel fireworks of any kind in the direction of or into the path of any animal, person or group of persons, or from, in the direction of or into any vehicle of any kind. (Code 2001)

7-308. **SALE OF FIREWORKS; WHERE PROHIBITED**.

(a) It shall be unlawful for fireworks to be stored, sold or displayed for sale in a place of business where paint, oils, varnishes, turpentine or gasoline or other

(b) Flammable substances are kept, unless such fireworks are in a separate and distinct section or department of the premises.

(b) Where the fire chief deems there is a fire hazard, he or she is hereby authorized to have such hazard abated. (Code 2001)

7-309. **RETAIL DISPLAY OF FIREWORKS.**

(a) All retailers are forbidden to expose fireworks where the sun shines through glass on the merchandise displayed, except where such fireworks are in the original package.

(b) All fireworks displayed for sale must remain in the original packages, except where an attendant is on constant duty at all times where such fireworks are on display; provided, that fireworks in open stock may be kept in show cases or counters out of the reach of the public without an attendant being on duty.

(c) Signs reading "Fireworks for Sale – No Smoking Allowed" shall be displayed in the section of a store or premises set aside for the sale of fireworks. (Code 2001)

7-310. **FIRE EXTINGUISHERS REQUIRED**.

(a) Two functioning and approved fire extinguishers must be provided and kept in close proximity to the stock of fireworks in all permanent buildings where fireworks are stored, sold or displayed for sale.

(b) Small stands, temporarily erected to be used as a place for storing and selling fireworks only, shall have one such fire extinguisher, or in lieu of the fire extinguisher, a pressurized water hose with nozzle end within five feet of the fireworks stand. (Code 2001)

7-311. **RESTRICTIONS AS TO GASOLINE INSTALLATIONS**. It shall be unlawful to store, keep, sell, display for sale or discharge any fireworks within 50 feet of any gasoline pump, gasoline filling station, gasoline bulk station or any building in which gasoline or volatile liquids are sold in quantities in excess of one gallon, except in stores where cleaners, paints and oils are handled in sealed containers only. (Code 2001)

7-312 **AUTHORITY OF FIRE CHIEF**. The chief of the fire department is authorized to seize and confiscate all fireworks, which may be kept, stored or used in violation of any section of this article, and all of the rules of the state fire marshal. He or she shall dispose of all such fireworks as may be directed by the governing body. (Code 2001)

ARTICLE 4. EMERGENCY SERVICE AGREEMENT

7-401 **COUNTY EMERGENCY SERVICE.**
The city of Alta Vista and the other Wabaunsee County governmental agencies agreed to form a joint committee, to cooperatively acquisition and provided maintenance of communication equipment to enhance the range, quality and versatility of the separate and joint emergency service capabilities of all parties. (Ord. 922 February 1992; Code 2009)

7-402. **FEES.** The government agencies shall pay a yearly fee to the Treasurer of the Emergency Service Board.

7-403. **BOARD MEMBERS.** At the May council meeting the mayor will appointment two members to be the city representatives to attend the called meetings of the County Emergency Service Board.

CHAPTER VIII. HEALTH AND WELFARE

Article 1. Health Nuisances
Article 2. Environmental Code
Article 3. Junked Motor Vehicles on Private Property
Article 4. Weeds
Article 5. Minimum Housing Code
Article 6. Rodent Control
Article 7. Insurance Proceeds Fund

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ARTICLE 1. HEALTH NUISANCES

8-101. **NUISANCES UNLAWFUL; DEFINED.** It shall be unlawful for any person to maintain or permit any nuisance within the city as defined, without limitation, as follows:

(a) Filth, excrement, lumber, rocks, dirt, cans, paper, trash, metal or any other offensive or disagreeable thing or substance thrown or left or deposited upon any street, avenue, alley, sidewalk, park, public or private enclosure or lot whether vacant or occupied;

(b) All dead animals not removed within 24 hours after death;

(c) Any place or structure or substance which emits or causes any offensive, disagreeable or nauseous odors;

(d) All stagnant ponds or pools of water;

(e) All grass or weeds or other unsightly vegetation not usually cultivated or grown for domestic use or to be marketed or for ornamental purposes;

(f) Abandoned iceboxes or refrigerators kept on the premises under the control of any person, or any icebox or refrigerator not in actual use unless the door, opening or lid there of is unhinged, or unfastened and removed there from;

(g) All articles or things whatsoever caused, kept, maintained or permitted by any person to the injury, annoyance or inconvenience of the public or of any neighborhood;

(h) Any fence, structure, thing or substance placed upon or being upon any street, sidewalk, alley or public ground so as to obstruct the same, except as permitted by the laws of the city. (K.S.A. 21-4106:4107; Code 2001)

8-102 **PUBLIC CODE OFFICER.** The mayor shall designate a public code officer to be charged with the administration and enforcement of this article. (Code 2001)

8-103. **COMPLAINTS; INQUIRY AND INSPECTION.** The public code officer shall make inquiry and inspection of premises upon receiving a complaint or complaints in writing signed by two or more persons stating that a nuisance exists and describing the same and where located or is informed that a nuisance may exist by the board of health, law enforcement officer or the fire chief. The public officer may make such inquiry and inspection when he or she observes conditions which appear to constitute a nuisance. Upon making any inquiry and inspection the public code officer shall make a written report of findings. (Code 2001)

8-104. **RIGHT TO ENTRY.** The public code officer has the right of access and entry upon private property at any reasonable time for the purpose of making inquiry and inspection to determine if a nuisance exists. (Code 2001)

8-105. **NOTICE OF VIOLATION.** Any person, corporation, partnership or association found by the public officer to be in violation of section 8-101 shall be served a notice of such violation. The notice shall be served on the owner or agent of such property by certified mail, return receipt is requested, or by personal service, or if the same is unoccupied and the owner is a nonresident, then by mailing a notice by certified mail, return receipt requested, to the last known address of the owner. (K.S.A. 12-1617e; Code 2001)

8-106. **SAME; CONTENTS.** The notice shall state the condition(s) which is (are) in violation of section 8-101. The notice shall also inform the person, corporation, partnership or association that:

(a) He, she or they shall have 10 days from the date of serving the notice to abate the conditions(s) in violation of section 8-101; or

(b) He, she or they have 10 days from the date of the serving of the notice to request a hearing before the governing body of the matter as provided by section 8-109.

(c) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by section 8-108. (Code 2001)

8-107. **FAILURE TO COMPLY; PENALTY.** Should the person, corporation, partnership or association fail to comply with the notice to abate the nuisance or request a hearing the public officer may file a complaint in the municipal court of the city against such person, corporation, partnership or association and upon conviction of any violation of provisions of section 8-101, be fined in an amount not to exceed $100 or be imprisoned not to exceed 30 days or be both fined and imprisoned. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense. (Code 2001)

8-108. **ABATEMENT.** In addition to, or as an alternative to prosecution as provided in section 8-107, the public code officer may seek to remedy violations of this section in the following manner. If a person to whom a notice has been sent pursuant to section 8-105 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in section 8-106, the public code officer may present a resolution to the governing body for adoption authoring the public code officer or other agents of the city to abate the conditions causing the violation at the end of 10 days after passage of the resolution. The resolution shall further provide that the costs incurred by the city shall be charged against the lot or parcel of ground on which the nuisance was located as provided in section 8-110. A copy of the resolution shall be served upon the person in violation in one of the following ways:

(a) Personal service upon the person in violation; or

(b) Certified mail, return receipt requested; or

(c) In the event the whereabouts of such person or persons are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to the effect shall be made by the public code officer and filed with the city clerk, and the serving of the resolution shall be made by publishing the same once each week for two consecutive weeks in the official city newspaper and by posting a copy of the resolution on the premises where such condition exists. (Code 2001)

8-109. **HEARING.** If a hearing is requested within the 10 day period as provided in section 8-106, such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the public code officer before the governing body as soon as possible after the filing of the request therefore, and the person shall be advised by the city of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the governing body shall record its determination of the matter by means of adopting a resolution and serving the resolution upon the person or persons in the manner provided in section 8-108. (Code 2001)

8-110. **COSTS ASSESSED.** If the city abates the nuisance pursuant to section 8-108, the cost of abatement shall be charged against the lot or parcel of ground on which the nuisance was located. The city clerk shall, at the time of certifying other taxes to the county clerk, certify the costs as provided in this section. The county clerk shall extend the same on the tax roll and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid (Code 2001)

ARTICLE 2. ENVIRONMENTAL CODE

8-201. **TITLE.** This article shall be known as the "Environmental Code." (Code 2001)

8-202. **LEGISLATIVE FINDING OF FACT.** The governing body has found that there exists within the city unsightly and hazardous condition due to: dilapidation, deterioration or disrepair of walls, siding, fences or structure exteriors accumulations increasing the hazards of accidents or other calamities; structural defects; uncleanliness; unsightly stored or parked material, equipment, supplies, machinery, vehicles or parts thereof. Such conditions are inimical to the general welfare of the community in that they have a blighting influence on the adjoining properties, the neighborhood and the city, or are injurious to the health and safety of the residents of the city. The governing body desires to promote the public health, safety and welfare by the repair, removal, abatement, and regulation of such conditions in the manner hereafter provided. (Code 2001)

8-203. **PURPOSE.** The purpose of this article is to protect, preserve, upgrade, and regulate the environmental quality of industrial, commercial and residential neighborhoods in this city, by outlawing conditions which are injurious to the health, safety, welfare or aesthetic characteristics of the neighborhoods and to provide for the administration and enforcement thereof. (Code 2001)

8-204. **RULES OF CONSTRUCTION.** For the purpose of this article, the following rules of construction shall apply:

(1) **Any part thereof** whenever the words premises, structure, building or yard are used they shall be construed as though they were followed by the words "or any part thereof."

(2) **Gender** Words of gender shall be construed to mean neuter, feminine or masculine, as may be applicable.

(3) **Number** Words of number shall be construed to mean singular or plural, as may be applicable.

(4) **Tense** Words of tense shall be construed to mean present or future as may be applicable.

(5) **Shall** the word shall is mandatory and not permissive. (Code 2001)

8-205. **DEFINITIONS.** The words and phrases listed below when used in this Article shall have the following meanings:

(1) **Abandoned Motor Vehicle** any motor vehicle which is not currently registered or tagged pursuant to K.S.A. 8-126 to 8-149 inclusive, as amended; or parked in violation of the code; or incapable of moving under its own power; or in a junked or wrecked condition.

(2) **Accessory Structure** a secondary structure detached from the principal structure but on the same premises, including, but not limited to, garages, sheds, barns or outbuildings.

(3) **Commercial or Industrial** used or intended to be used primarily for other than residential purposes.

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

(5) **Exterior** those parts of a structure which are exposed to the weather or subject to contact with the elements; including, but not limited to: sidings, facings, veneers, masonry, roofs, foundations, porches, screens, shutters, windows, doors or signs.

(6) **Garbage** without limitation any accumulation of animal, fruit or vegetable waste matter that results from the handling, preparation, cooking, serving, delivering, storage, or use of foodstuffs.

(7) **Person** any individual, individuals, corporation, partnership, unincorporated association, other business organization, committee, board, trustee, receiver, agent or other representative who has charge, care control or responsibility for maintenance of any premises, regardless of status as owner, renter, tenant or lessee, whether or not in possession.

(8) **Premises** any lot, plot or parcel of land including the structures thereon. Premises shall also mean any lot, plot or parcel of land without any structures thereon.

(9) **Refuse** garbage and trash.

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

(11) **Structure** anything constructed or erected which requires location on the ground or is attached to something having a location on the ground including any appurtenances belonging thereto.

(12) **Trash** combustible waste consisting of, but not limited to: papers, cartons, boxes, barrels, wood, excelsior, furniture, bedding, rags, leaves, yard trimmings, or tree branches and non-combustible waste consisting of, but not limited to: metal, tin, cans, glass, crockery, plastics, mineral matter, ashes, clinkers, or street rubbish and sweepings.

(13) **Weathered** the area of the premises not occupied by any structure.

8-206. **PUBLIC CODE OFFICER.** The mayor with the consent of the council shall designate a public officer to be charged with the administration and enforcement of this article.

8-207. **ENFORCEMENT STANDARDS.** No person shall be found in violation of the article unless the public code officer, after a reasonable inquiry and inspection of the premises, believes that conditions exist of a quality and appearance not commensurate with the character of the neighborhood. Such belief must be supported by evidence of a level of maintenance significantly below that of the rest of the neighborhood. Such evidence shall include conditions declared unlawful under section 8-208 but shall not include conditions which are not readily visible from any public place or from any surrounding private property. (Code 2001)

8-208. **UNLAWFUL ACTS.** It shall be unlawful for any person to allow to exist on any residential, commercial or industrial premises, conditions which are injurious to the health, safety or general welfare of the residents of the community or conditions which are detrimental to adjoining property, the neighborhood or the city. For the purpose of fair and efficient enforcement and administration, such unlawful conditions shall be classified as follows:

(a) **Exterior conditions (yard)** shall include, but not limited to, the scattering over or the parking, leaving, depositing or accumulation on the yard of any of the following:

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

(2) Abandoned motor vehicles; or

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

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

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

(1) exteriors of any structure;

(2) exteriors of any accessory structure; or

(3) fences, walls or retaining walls. (Code 2001)

8-209. **NOTICE.** Any person found by the public officer to be in violation of section 8- 208 shall be sent a notice of such violation by the public code officer. The notice shall be sent by certified mail, return receipt requested. The notice shall state:

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

(b) That the person in violation shall have:

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

(2) 45 days from the date of the mailing of the notice to alleviate the exterior conditions (structure) violation:

Or in the alternative to subsections (1) and (2) above.

(3) 15 days from the date of the mailing of the notice to request, as provided in section 8-213 a hearing before the governing body on the matter; and

(c) That failure to alleviate the condition or to request a hearing may result in prosecution under section 8-210 and/or abatement of the condition by the city according to section 8-211 with the cost assessed against the property under section 8-214. (Code 2001)

8-210. **PENALTY.** The public code officer may file a complaint in the municipal court against any such person shall first have been sent a notice as provided in section 8-209 and that the person has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in section 8-209. Upon such complaint in the municipal court, any person found to be in violation of section 8-208 shall upon conviction be punished by a fine of not less than $50 or more than $100, or by imprisonment, for not more than 30 days, or by both such fine and imprisonment, for each offense. For the purpose of this article, a separate offense shall be deemed committed on each day during or on which such violation is permitted to exist. (Code 2001)

8-211. **ABATEMENT.** In addition to, or as an alternative to, prosecution as provided in section 8-210, the public officer may seek to remedy violations of this article in the following manner. If a person to whom a notice has been sent pursuant to section 8-209 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in section 8-209, the public officer may present a resolution to the governing body for adoption authorizing the public code officer or other agents of the city to abate the conditions causing the violation at the end of 20 days after passage of the resolution. The resolution shall further provide that the costs incurred by the city shall be assessed against the property as provided in section 8-215.

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

(a) Personal service upon the person in violation;

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

(c) In the event the whereabouts of such person or persons are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the public code officer and filed with the city clerk, and the serving of the resolution shall be made by publishing the same once each week for two consecutive weeks in the official city newspaper and by posting a copy of the resolution on the premises where such condition s exist. (Code 2001)

8-112. **HEARING BEFORE GOVERNING BODY**. If a hearing is requested within the 15 day period as provided in section 8-209 such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the public officer before the governing body. The hearing shall be held by the governing body as soon as possible after the filing of the request therefore, and the person shall be advised by the city of the time and place of the hearing at least 5 days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the governing body shall record its determination of the matter by means of adopting a resolution and serving the resolution upon the person in the manner provided in section 8-211. (Code 2001)

8-213. **APPEALS.** Any person affected by any determination of the governing body under sections 8-211 or 8-212 may appeal such determination in the manner provided by K.S.A. 60-2101. (Code 2201)

8-214. **COSTS ASSESSED.** If the city abates the conditions in violation of this article pursuant to section 8-211, the cost of abatement shall be charged against the lot or parcel of ground on which the conditions were located. The city clerk shall, at the time of certifying other taxes to the county clerk, certify the costs as provided in this section. The county clerk shall extend the same on the tax roll and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. (Code 2001)

8-215. **CONSTRUCTION.** Nothing in this article shall be construed to abrogate or impair the powers of the courts or of any department of the city to enforce any provision of its laws nor to prevent or punish violations thereof. The powers conferred by this article shall be in addition to and supplemental to the powers conferred by the Kansas Constitution, by any other law or by ordinance. (Code 2001)

ARTICLE 3. JUNKED MOTOR VEHICLES ON PRIVATE PROPERTY

8-301. **FINDINGS OF GOVERNING BODY.** The governing body finds that junked, wrecked, dismantled, inoperative or abandoned vehicles affect the health, safety and general welfare of citizens of the city because they:

(a) Serve as a breeding ground for flies, mosquitoes, rats, and other insects and rodents.
(b) Are a danger to persons, particularly children, because of broken glass, sharp metal protrusions, insecure mounting on blocks, jacks or other supports;
(c) Are a ready source of fire and explosion;
(d) Encourage pilfering and theft;
(e) Constitute a blighting influence upon the area in which they are located;
(f) Constitute a fire hazard because they frequently block access for fire equipment to adjacent buildings and structures. (Code 2001)

8-302. **DEFINITIONS.** As used in this article, unless the context clearly indicates otherwise:
(a) **Inoperable** means, a condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned or unable to perform the function or purpose for which it was originally constructed;
(b) **Vehicle** means, without limitation, any automobile, truck, tractor or motorcycle which as originally built contained an engine, regardless of whether it contains an engine at any other time. (Code 2001)

8-303. **NUISANCES UNLAWFUL; DEFINED; EXCEPTIONS.** It shall be unlawful for any person to maintain or permit any motor nuisance within the city.
(a) A motor vehicle nuisance is any motor vehicle which is not currently registered or tagged pursuant to K.S.A. 8-126 to 8-149 inclusive, as amended; or parked in violation of city ordinance; or incapable of moving under its own power; or in a junked, wrecked, or inoperable condition. Any one of the following conditions shall raise the presumption that a vehicle is junked, wrecked or inoperable;
(1) Absence of a current registration plate upon the vehicle;
(2) Placement of the vehicle or parts thereof upon jacks, blocks, or other supports;
(3) Absence of one or more parts of the vehicle necessary for the lawful operation of the vehicle upon the street or highway;
(b) The provisions of this section shall not apply to:
(1) Any motor vehicle which is enclosed in a garage or other building
(2) To the parking or storage of a vehicle inoperable for a period of 30 consecutive days or less; or
(3) To any person conducting a business enterprise in compliance with existing zoning regulations or who places such vehicles behind screening of sufficient size, strength and density to screen such vehicles from the view of the public and to prohibit ready access to stored vehicles by children. However, nothing in this subsection shall be construed to authorize the maintenance of a public nuisance. (Code 2001)

8-304. **PUBLIC CODE OFFICER.** The mayor shall designate a public code officer to be charged with the administration and enforcement of this article. (Code 2001)

8-305. **COMPLAINTS; INQUIRY AND INSPECTION**. The public code officer shall make inquiry and inspection of premises upon receiving a complaint or complaints in writing signed by two or more persons stating that a nuisance exists and describing the same and where located or is informed that a nuisance exists and describing the same and where located or is informed that a nuisance may exist by the board of health, law enforcement officer, fire chief. The public code officer may make such inquiry and inspection when he or she observes conditions which appear to consutitute a nuisance. Upon making any inquiry and inspection the public officer shall make a written report of findings. (Code 2001)

8-306. **RIGHT OF ENTRY**. The public code officer has the right of access and entry upon private property at any reasonable time for the purpose of making inquiry and inspection to determine if a nuisance exists. (Code 2001)

8-307. **NOTICE.** Any person found by the public code officer to be in violation of section 8-303 shall be served a notice of such violation. The notice shall be served by certified mail, return receipt requested; or by personal service. (Code 2001)

8-308. **SAME; CONTENTS.** The notice shall state the condition (s) which is (are) in violation of section 8-303. The notice shall also inform the person or person that:

(a) He, she or they shall have 10 days from the date of serving the notice to abate the condition(s) in violation of section 8-303; or

(b) He, she or they have 10 days from the date of serving the notice to request a hearing before the governing body of the matter as provided by section 8-312;

(c) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by section 8-309 and/or abatement of the condition(s) by the city as provided by section 8-310.

8-309. **FAILURE TO COMPLY; PENALTY**. Should the person fail to comply with the notice to abate the nuisance or request a hearing, the public officer may file a complaint in the municipal court of the city against such person or persons and upon conviction of any violation of provisions of section 8-303 be fined in an amount not to exceed $100 or be imprisoned not to exceed 30 days or be both fined and imprisoned. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense. (Code 2001)

8-310. **ABATEMENT.** In addition to, or as an alternative to prosecution as provided in section 8-309, the public code officer may seek to remedy violations of this article in the following manner. If a person to whom a notice has been sent pursuant to section 8-308 has neither alleviated the conditions causing the alleged violation or requested a hearing before the governing body within the time period specified in section 8-308, the public code officer may present a resolution to the governing body for adoption authoring the public code officer or agents of the city to abate the conditions causing the violation at the end of 10 days after passage of the resolution.

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

(a) Personal service upon the person or persons in violation;

(b) Service by certified mail, return receipt requested;

(c) In the event the whereabouts of such person or persons are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that affect shall be made by the public code officer and filed with the city clerk, and the serving of the resolution shall be made by publishing the same once each week for two consecutive weeks in the official city newspaper and by posting a copy of the resolution on the premises where such condition exists. (Code 2001)

8-311. **DISPOSITION OF VEHICLE.** Disposition of any motor vehicle removed and abated from private property pursuant to this article shall be as provided by K.S.A. Supp 8-1102, as amended. (Code 2001)

8-312. **HEARING.** If a hearing is requested within the 10 day period as provided in section 8-308, such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the public code officer before the governing body. The hearing shall be held by the governing body as soon as possible after the filing of the request therefore, and the person shall be advised by the city clerk of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person or persons may be represented by counsel, and the person or persons and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body. The hearing need not be conducted according to the formal rule of evidence. Upon conclusion of the hearing, the governing body shall record its determination of the matter by means of adopting a resolution and serving the resolution upon the person or person's in the matter provided in section 8-310. (Code 2001)

8-313. **COSTS ASSESSED.** If the city abates the nuisance pursuant to section 8-310, the cost of abatement shall be charged against the lot or parcel of ground on which the nuisance was located. The city clerk shall, at the time of certifying other taxes to the county clerk, certify the costs as provided in this section. The county clerk shall extend the same on the tax roll and it shall be collected by the county treasurer and paid to the city as other taxes are collected and paid. (Code 2001)

ARTICLE 4. WEEDS

8-401. **WEEDS TO BE REMOVED.** It shall be unlawful for any owner, agent, lessee, tenant, or other person occupying or having charge or control of any premises to permit weeds to remain upon said premises or any area between the property lines of said premises and the centerline of any adjacent street or alley, including but not specifically limited to sidewalks, streets, alleys, easements, rights-of-way and all other areas, public or private. All weeds as hereinafter defined are hereby declared a nuisance and are subject to abatement hereinafter provided. (Code 2001)

8-402. **DEFINITIONS. Weeds** as used herein, means any of the following:

(a) Brush and woody vines shall be classified as weeds.

(b) Weeds and grasses which may attain such large growth as to become, when dry, a fire menace to adjacent improved property;

(c) Weeds which bear or may bear seeds of a downy or wing nature.

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

(e) Weeds and grasses on or about residential property which, because of its height, has a blighting influence on the neighborhood. Any such weeds and indigenous grasses shall be presumed to be blighting if they exceed 12 inches in height. (Code 2001)

8-403. **PUBLIC CODE OFFICER; NOTICE TO REMOVE**. The mayor with the consent of the council shall designate a public code officer to be charged with the administration and enforcement of this ordinance. The public code officer or an authorized assistant shall notify in writing the owner, occupant or agent in charge of any premises in the city upon which weeds exist in violation of this ordinance, by certified mail, return receipt requested, or by personal service, once per calendar year. Such notice shall include the following:

(a) That the owner, occupant or agent in charge of the property is in violation of the city weed control law.

(b) That the owner, occupant, or agent in charge of the property is ordered to cut the weeds within 10 days of the receipt of notice.

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

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

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

(f) That no further notice shall be given prior to removal of weeds during the current calendar year.

(g) That the public code officer should be contacted if there are any questions regarding the order.

If there is a change in the recorded owner of title to property subsequent to the giving of notice pursuant to this subsection, the city may not recover any costs or levy an assessment for the cost incurred by the cutting or destruction of weeds on such property unless the new recorded owner of title to such property is provided notice as required by the section. (Code 2001)

8-404. **ABATEMENT; ASSESSMENT OF COSTS**.

(a) Upon the expiration of 10 days after receipt of the notice required by section 8-403, and in the event that the owner, occupant or agent in charge of the premises shall neglect or fail to comply with the requirements of section 8-401, the public officer or an authorized assistant shall cause to be cut, destroyed and/or removed all such weeds and abate the nuisance created thereby at any time during the current calendar year.

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

(c) If the costs of removal or abatement remain unpaid after 30 days following receipt of notice, a record of the costs of cutting and destruction and/or removal shall be certified to the city clerk who shall cause such costs to be assessed against the particular lot or piece of land on which such weeds were so removed, and against such lots or pieces of land in front of or abutting on such street or alley on which such weeds were so removed. The city clerk shall extend the same on the tax roll and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. (Code 2001)

8-405. **RIGHT OF ENTRY.** The public code officer, and the public code officer's authorized assistants, employees, contracting agents or other representatives are hereby expressly authorized to enter upon private property at all reasonable hours for the purpose of cutting, destroying and/or removing such weeds in a manner not inconsistent with this article. (Code 2001)

8-406. **UNLAWFUL INTERFERENCE.** It shall be unlawful for any person to interfere with or to attempt to prevent the public officer or the public code officer's authorized representative from entering upon any such lot or piece of ground or from proceeding with such cutting and destruction. Such interference shall constitute a code violation. (Code 2001)

8-407. **NOXIOUS WEEDS.**

(a) Nothing in this article shall effect or impair the rights of the city under the provision of Chapter 2 Article 13 of the K.S.A., relating to the control and eradication of certain noxious weeds.

(b) For the purpose of this section, the term noxious weeds shall mean kudzu (Pueraria lobata), field bindweed (Convolvulus arvensis), Russian knapweed (Centaurea picris), hoary cress (Lepidium draba), Canada thistle (Cirsium arvense), quackgrass (Agropyron repens), leafy spurge (Euphorbia esula), burragweed (Franseria tomentosa and discolor), pignut (Hoffmannseggia densiflora), musk (nodding) thistle (Carduus nutans L.), and Johnson grass (Sorghum halpense). (K.S.A. 2-1314; Code 2001)

ARTICLE 5. MINIMUM HOUSING CODE

8-501. **TITLE.** This article shall be known as the "Minimum Standard for Housing and Premises Code," and will be referred to herein as "the code". (Code 2001)

8-502. **GENERAL.** Buildings used in whole or part as a home or residence of a single family or person and every building used in whole or in part as a home or residence of two or more person or families living in separate apartments and all premises, either residential or non-residential, shall conform to the requirements of this code. (Code 2001)

8-503. **DECLARATION OF POLICY**. The governing body declares the purpose of this code is to protect, preserve, and promote the physical and mental health of the people, investigate and control communicable diseases, regulate privately and publicly owned structures or dwellings, and all premises for the purpose of sanitation and public health, general appearance, and protect the safety of the people and promote the general welfare by legislation which shall be applicable to all dwellings, structures and premises now in existence or hereafter constructed or developed and which legislation:

(a) Establishes minimum standards for basic equipment and facilities for light, ventilation and heating, for safety from fire, for the use and location and amount of space for human occupancy, and for safe and sanitary maintenance;

(b) Establishes standards concerning unsightly and blighted buildings and premises, both residential and non-residential structures.

(c) Determines the responsibilities of owners, operators and occupants.

(d) Provides for the administration and enforcement thereof. (Code 2001)

8-504. **DEFINITION.** The following definitions shall apply to the enforcement of this code:

(a) **Basement** shall mean a portion of a building located partly underground, but having less than half its clear floor-to-ceiling height below the average grade of the adjoining ground.

(b) **Cellar** shall mean a portion of a building located partly or wholly underground, and having half or more than half of its clear floor-to-ceiling height below the average grade of the adjourning ground.

(c) **Dwelling** shall mean any building which is wholly or partly used or intended to be used for living or sleeping by human occupants: provided, that temporary housing hereinafter defined shall not be regarded as a dwelling.

(d) **Dwelling Unit** shall mean any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used, or intended to be used for living, sleeping, cooking and eating.

(e) **Habitable Dwelling** shall mean any structure or part thereof that shall be used as a home or place of abode by one or more persons.

(f) **Habitable Room** shall mean a room designed to be used for living, sleeping, eating or cooking purposes, excluding bathrooms, toilet rooms, closets, halls and storage places, or other similar places, not used by person for extended periods.

(g) **Infestation** shall mean the presence, within or around a dwelling, of insects, rodents, or other pests.

(h) **Multiple Dwelling** shall mean any dwelling containing more than two dwelling units.

(i) **Occupant** shall mean any person, over one year of age, living, sleeping cooking, or eating in, or having actual possession of, a dwelling unit or rooming unit.

(j) **Operator** shall mean any person who had charge, care, owns, or has control of a premise or of a building or structure or part thereof, in which dwelling units or rooming units are let.

(k) **Owner** shall mean any person, firm, or corporation, who jointly or severally along with others, shall be in actual possession of, or have charge, care and control of any structure or dwelling unit or premises within the city as owner, employee, or agent of the owner, or as trustee or guardian of the estate or person of the title holder, and such person shall be deemed and taken to be the owner or owner of such property within the true intent and meaning of this code and shall be bound to comply with the provisions of this article to the same extent as the recorded owner and notice to any such person shall be deemed and taken to be good and sufficient notice as if such person or persons were actually the recorded owner or owner of such property.

(l) **Person** shall mean and include any individual, firm, corporation, association or partnership.

(m) **Plumbing** shall mean and include all of the following supplies facilities and equipment: gas or fuel pipes, gas or fuel burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks installed dishwashers, lavatories, bathtubs, shower baths, installed clothes-washing machines, catch basins, drains, vents and any other similar supplied fixture, together with all connections to water, sewer, gas or fuel lines.

(n) **Premise** shall mean any lot or land area, either residential or non-residential, not covered by a structure and which is subject to a city tax in part or in whole.

(o) **Public Code Officer** shall mean the person designated to be administrator and enforcement officer.

(p) **Rooming House** shall mean any dwelling, or that part of a dwelling containing one or more rooming units in which space is let by the owner or operator to three or more persons who are not husband and wife, son or daughter, mother or father, or sister or brother of the owner or operator.

(q) **Rooming Unit** shall mean any room or group of rooms forming a single habitable unit intended to be used for living and sleeping, but not for cooking and eating purposes.

(r) **Refuse** for the purpose of this article refuse shall include garbage, and trash.

(1) **Garbage** shall mean any accumulation of animal, fruit or vegetable waste matter that attends the preparation of, use of, cooking of, delivering of, or storage of meats, fish, fowl, fruit or vegetable.

(2) **Trash (Combustible).** For the purpose of this article combustible trash shall mean waste consisting of papers, cartons, boxes, barrels, wood and excelsior, tree branches, yard trimmings, wood furniture, bedding and leaves, or any other combustible materials.

(3) **Trash (Non-Combustible).** For the purpose of this article non-combustible trash shall mean waste consisting of metals, tin cans, glass, crockery, other mineral refuse and ashes and street rubbish and sweepings, dirt, sand, concrete scrap, or any other non-combustible material.

(s) **Structure** shall mean anything constructed or erected on the ground or attached to something having a location in the ground.

(t) **Supplied** shall mean paid for, furnished, or provided by or under the control of, the owner or operator.

(u) **Temporary Housing** shall mean any tent, trailer, or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, house or building or another structure, or to any utilities system on the same premises for more than 30 consecutive days, except when located in a mobile home court duly licensed under laws of the city.

(v) **Words-Meanings.** Whenever the words "dwelling," "dwelling unit," "rooming house." "rooming unit," "premises," are used in this ordinance, they shall be construed as though they were followed by the words "or any part thereof." (Code 2001)

8-505. **DUTY OF OCCUPANT OR OWNER OF OCCUPIED OR UNOCCUPIED BUILDING AND ITS PREMISES OR VACANT PREMISES.**

(a) It shall be the duty of the owner of every occupied or unoccupied dwelling, building, and premises or vacant premise, including all yards, lawns, and courts to keep such property clean and free from accumulation of filth, rubbish, garbage, or any similar matter as covered in section 8-508:509.

(b) It shall be the duty of each occupant of a dwelling unit to keep in clean condition the portion of the property which he or she occupies and of which he or she has exclusive control, to comply with the rules and regulations, to place all garbage and refuse in proper containers. Where care of the premise is not the responsibility of the occupant then the owner is responsible for violations of this code applicable to the premise.

(c) If receptacles are not provided by the owner, then the occupant shall provide receptacles as may be necessary to contain all garbage and trash.

(d) Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling units shall be responsible for such extermination whenever his or her dwelling unit is the unit primarily infested.

(e) Notwithstanding, the foregoing provisions of this section, whenever infestation is caused by failure of the owner to maintain a dwelling in a vermin proof or reasonable insect-proof condition, exterminations shall be the responsibility of the owner and operator.

(f) Whenever infestation exists in two or more of the dwellings units in any dwelling, or in the shared or public parts of any dwelling containing units in any dwelling, or in the shared or public parts of any dwelling containing two or more dwelling units, extermination thereof shall be the responsibility of the owner, (Code 2001)

8-506.**REGULATIONS FOR THE USE AND OCCUPANCY OF DWELLINGS.** No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit for the purpose of living, sleeping, cooking, or eating therein, which does not comply with the following requirements. The following requirements are hereby declared essential to the health and safety of the occupants of such dwelling or dwelling unit:

(a) **Attached Garages or Non-dwelling Areas.** All non-dwelling occupancies shall be separated from the dwelling unit by a fire wall and if the dwelling and garage are covered by a common or connecting roof, then the ceiling also must have a fire resistance rating of not less than one hour as defined in the IBC building code 2003 or the latest edition that has been printed.

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

(c) **Basement Dwelling Units**. The use of basements or cellars for dwelling units is prohibited unless they comply with section 8-506(r) governing ventilation, provided however, if occupied at the time of the passage of this code and if it complies with all other provisions of this code, the public code officer may approve less than the required windows, if in his or her opinion, the window area is not detrimental to the occupants.

(d) **Bathing Facilities**. Every dwelling unit shall contain within a room which affords privacy to a person in the room, a bathtub or shower in good working condition and properly connected to an approved water and sewer system.

(e) **Boarding and Rooming Houses.** No room shall be used for sleeping purposes unless the ceiling height is at least seven feet and there are at least 400 cubic feet of air space for each occupant over six years of age. For sleeping rooms with sloping ceilings, the ceiling height shall be at least seven feet over at least 50 percent of the floor space.

(1) Bathing facilities shall be provided in the form of a tub or shower for each eight occupants. Separate facilities shall be provided for each sex and plainly marked.

(2) A flush water closet shall be provided for each six occupants and shall be separated with the separate access from bathing facilities if more than four occupants are served by each. Separate facilities shall be provided for each sex and shall be plainly marked.

(f) **Drainage.** All courts, yards, or other areas on the premises of any dwelling shall be so graded and drained that there is not pooling of the water thereon. Properly constructed wading and swimming pools and fish ponds are exempted from this section.

(g) **Entrances.**

(1) There shall be for each dwelling unit a normally used separate access either to a hallway, stairway, or street, which is safe and in good repair.

(2) A secondary exit to the ground shall be available in case of fire through windows, porch roofs, ladders or any combination that is free of hazard or egress.

(h) **Floor Area.** Every dwelling unit shall contain at least 150 square feet of floor space for the first occupant thereof and at least 100 additional square feet of floor space for every additional occupant thereof. The floor space shall be calculated on the basis of total habitable room area, inside measurements. No floor space shall be included in determining habitable room area over which the ceiling is less than seven feet above the floor for the purpose of this subsection.

(i) **Garbage and Trash Receptacles**. Every dwelling and every dwelling unit shall be provided with such receptacles, not exceeding 32 gallon capacity, as may

be necessary to contain all garbage and trash and such receptacles shall at all times be maintained in good repair.

(j) **Heating.** Every dwelling and every dwelling unit shall be so constructed, insulated, and maintained and be provided by owner or occupant with heating units so that it is capable of reaching an air temperature of 70 degrees Fahrenheit under ordinary winter conditions. The chimney of the dwelling or dwelling unit shall be maintained in good order, and the owner of the approved heating equipment shall maintain it in good order and repair.

(k) **Kitchen Sink.** In every dwelling unit containing two or more rooms, there shall be at least one kitchen sink with public water under pressure and connected to the public sewer, or if that sewer system is not available, to a sewage disposal system approved by the city health department.

(l) **Lavatory Facilities**. Every dwelling unit shall contain within its walls a lavatory basin in good working condition and properly connected to an approved water and sewer system and located in the same room as the required flush water closet or as near to the room as practicable.

(m) **Lighting.** Every habitable room shall have a ceiling electric outlet and a duplex outlet in wall or floor, or at least two wall or floor outlets.

(n) **Lighting of Toilets and Bathrooms.** Every toilet and every bathroom in every dwelling shall have at least one electric light in either the ceiling or on the wall.

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

(p) **Privies.** All pit privies, privy vaults, "Dry hopper" sewer-connected privies and frost-proof closest are hereby declared to be a public nuisance.

(q) **Toilet Facilities.** There shall be at least one flush water closet in good working condition for each dwelling unit, which flush water closet shall be located within the dwelling and in a room which affords privacy.

(r) **Ventilation.** Every habitable room in a dwelling or dwelling unit shall contain a window or windows operable directly to the outside air and the total area of such window or windows shall be not less that five percent of the floor area of such room. An approved system of mechanical ventilation or air conditioning may be used in lieu of operable windows. Such system shall be capable of providing not less than four air changes per hour, except that in toilet compartments such system shall provided a complete air change every five minutes and be automatically put in operation when the toilet compartment light is in the "on" position.

(s) **Water Heating Facilities.** Every dwelling shall have supplied water heating facilities which are installed in an approved manner and are maintained and operated in a safe and good working condition and are properly connected with the hot water lines to the kitchen sink, lavatory and bathtub or shower.

(t) **Windows and Doors.** Every window and exterior door shall be reasonable weather-tight, lockable, and rodent-proof and shall be kept in good working condition and good repair. (Code 2001)

8-507. **MAINTENANCE AND REPAIR; DWELLINGS**. Every dwelling and every part thereof shall be maintained in good repair by the owner or agent and be fit for human habitation. The roof shall be maintained so as not to leak and all rainwater shall be drained there from so as not to cause dampness in the walls or

ceilings. All floors, stairways, doors, porches, windows, skylights, chimneys, toilets, sinks, walls, and ceilings shall be kept in good repair and usable condition. (Code 2001)

8-508. **DESIGNATION OF UNFIT DWELLINGS**. The designation of dwellings or dwelling units as unfit for human habitation and placarding of such unfit dwellings or dwelling units shall be carried out in compliance with the following requirements:

(a) **The Public Code Officer** may determine, or five citizens may petition in writing, that any dwelling units is unfit for human habitation and placarding of such unfit dwellings or dwelling units shall be carried out in compliance with the following requirements:

(b) **Such Conditions** may include the following without limitation:

(1) Defects therein increasing the hazards of fire, accident, or other calamities.

(2) Lack of:

(i) Adequate ventilation.

(ii) Light.

(iii) Cleanliness.

(iv) Sanitary facilities.

(3) Dilapidation.

(4) Disrepair.

(5) Structural defects.

(6) Overcrowding.

(7) Inadequate ingress and egress.

(8) Unsightly appearance that constitute a blight to the adjoining property, the neighborhood or the city.

(9) Air Pollution.

(c) **Placarding- Order to Vacate.** Any dwelling or dwelling unit condemned as unfit for human habitation, and so designated and placarded by the public code officer shall be vacated within a reasonable time as so ordered.

(d) **Notice of Violation.** Procedures as outlined in section 8-512 are applicable hereto.

(e) **Compliance Required before Reoccupany.** No dwelling or dwelling unit which has been condemned and placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from, and such placard is removed by the public code officer.

(1) The public code officer shall remove such placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated.

(2) It shall be unlawful for anyone to let, lease, occupy or permit the occupancy, whether for a consideration or not, of a dwelling so posted and any violation of this provision shall constitute a public offense within the meaning of this code.

(3) It shall be unlawful for any person to deface or remove the placard from any dwelling or dwelling unit which has been condemned as unfit for human habitation and placarded as such, except the public code officer as herein provided, and any violation of this provision shall be constitute a public offense within the meaning of this code. (Code 2001)

8-509. **DESIGNATION OF BLIGHTED PREMISES (RESIDENTIAL AND NON RESIDENTIAL)** The designation of unsightly and blighted premises and elimination thereof shall be carried out in compliance with the following requirements.

(a) **The Public Code Officer** may determine, or five citizens may petition in writing, that if the appearance of a premise is not commensurate with the character of the properties in the neighborhood or otherwise constitutes blight to the adjourning properties or the neighborhood or the city for such reasons as, but not limited to:

(1) Dead trees or other unsightly natural growth.

(2) Unsightly stored or parked material, equipment, supplies, machinery, trucks or automobiles or parts thereof; vermin infestation, inadequate drainage.

(3) Violation of any other law or regulations relating to the use of land and the use and occupancy of the buildings and improvements.

(b) **Notice of Violation.** Procedures as outlined in section 8-512 are applicable hereto. (Code 2001)

8-510. **DESIGNATION BLIGHTED BUILDINGS AND PREMISES (NON-RESIDENTAL.**

(a) **Certain Blighted Conditions** covered in section 8-508:509 concerning buildings and premises which are on the tax roll of the city are applicable to all non-residential buildings and premises.

(b) **Notice of Violations.** Procedures of notification shall follow those prescribed in section 8-512. (Code 2001)

8-511. **INSPECTION OF BUILDINGS AND STRUCTURES, AND PREMISES.**

(a) **For the Purpose of Determining Compliance** with the provision of this code, the public code officer or his or her authorized representative is hereby authorized to make inspections to determine the condition, use, and occupancy of dwellings, dwelling units, rooming units, and the premises upon which the same are located, This requirement is applicable to existing dwellings or buildings.

(b) **The Public Code Officer** is not limited by the conditions in the above paragraph (a) where new construction or vacant premises are involved and may make such inspections at any appropriate time.

(c) **The Owner, Operator, and Occupant** of every dwelling, dwelling unit, and rooming unit shall give the public code officer, or his or her authorized representative, during reasonable hours, free access to such dwelling, dwelling unit, and rooming unit, and its premises, for the purpose of such inspection, examination and survey after identification by proper credentials.

(d) **Every Occupant** of a dwelling shall give the owner thereof, or his or her authorized agent or employees, access to any part of such dwelling, or its premises, at all reasonable times, for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this code or with any rule or regulation adopted and promulgated, or any order issued pursuant to the provisions of this code.

8-512. **NOTICE OF VIOLATIONS; PROCEDURES**.

(a) **Informal Discussion.** Whenever the public code officer or his or her authorized representative determines that there has been a violation of any provision of this code, the public code officer will arrange with the alleged violator for an informal discussion of violations, and whether repair and correction is justified.

(b) **Formal Hearing.** If a satisfactory solution to the violations, either by correction, demolition or removal, is not forthcoming, then a legal notice of a formal hearing will be issued according to the following procedures.

(1) Shall be in writing.

(2) Shall list the violations alleged to exist or to have been committed.

(3) Shall provide a reasonable time, but not less than 30 days in any event for the correction of the violations particularized.

(4) Shall be addressed to and served upon the owner of the property, the operator of the dwelling, and the occupant of the dwelling unit or the rooming unit concerned, if the occupant is or may be responsible for violation.

(5) If one or more persons whom the notice is addressed cannot be found or served after diligent effort to do so, service may be made upon such person or persons by posting a notice in a conspicuous place in or about the dwelling affected by the notice, in which event the public officer or his or her authorized representative shall include in the record a statement as to why such posting was necessary.

(6) Delivery shall be by certified mail, return receipt requested, or by personal service. If service is made by certified mail, the public officer or his or her authorized representative shall include in the record a verified statement giving details regarding the mailing. (Code 2001)

8-513. **PUBLIC OFFICER; AUTHORITY**. For the purpose of protecting the city against unsightly or blighted premises, also the health, welfare, and safety of the inhabitants of dwellings or dwelling units, the public code officer referred heretofore is hereby authorized, with the consent and prior knowledge of the governing body, to enforce provisions of this code and of other laws which regulate or set standards affecting buildings and premises. (Code 2001)

8-514. **GOVERNING BODY; AUTHORITY**. The governing body is hereby authorized:

(a) **To Informally Review** all alleged violations as provided in section 8-512(a) prior to notification prescribed in section 8-512(b).

(b) **To Take Action** as prescribed in section 8-512(b).

(c) **To Hear Appeals** where there is opposition to any order, requirement, decision or determination by the public code officer in enforcement of this code as outlined in section 8-518.

(d) **Discretionary Authority** may be exercised in specific cases where variance from the terms of the code as:

(1) Will not adversely affect the public health, safety or welfare of inhabitants of the city.

(2) Is in harmony with the spirit of this code.

(3) Where literal enforcement of the code will result in unnecessary hardship. (Code 2001)

8-515. **ORDER TO CORRECT AND/OR REPAIR, REMOVE OR DEMOLISH**. At the time of the placarding and order to vacate specified by section 8-508 (c) hereof, the public code officer shall also issue and cause to be served upon the owner a notice advising of the option of removal or demolition in lieu of correction and/or repair following the procedures as outlined in section 8-512. (Code2001)

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

(a) **Failure to Comply** with the order under section 8-515 hereof for the alteration or improvement of such structure, the public code officer, with the consent and prior knowledge of the governing body, may cause such condemned structure to be removed or demolished and the premises improved to eliminate the conditions outlined in section 8-509 of the code.

(b) **The Cost of Demolition by a Public Code Officer** shall be a lien upon the property upon which the cost was incurred and such lien, including as a part thereof an allowance of his or her costs and necessary attorney's fees, may be foreclosed in judicial proceedings in the manner provided or authorized by law for loans secured by liens on real property or shall be assessed as a special assessment upon the lot or parcel of land on which the structure was located and the city clerk at the time of certifying other city taxes, shall certify the unpaid portion of the aforesaid costs and the county clerk shall extend the same on the tax rolls against the lot or parcel of land.

(c) **If the Structure is Removed or Demolished by the Public Code Officer** he or she shall offer for bids and sell the structure or the materials of such structure. The proceeds of such sale shall be credited against the cost of the removal or demolition and, if there is any balance remaining, it shall be paid to the parties entitled there to after deduction of cost or judicial proceedings, if any, including the necessary attorney's fees incurred therein, as determined by the court, if involved (Code 2001)

8-517. **CONFLICT OF LAWS; EFFECT OR PARTIAL INVALIDITY**.

(a) Conflicts between the provisions of this code and with a provision of any zoning, building, fire, safety, or health ordinance or code of the city, existing on the effective date of this article, the provision shall prevail which established the higher standard.

(b) Conflicts between this article with a provision of any other ordinance or code of the city existing on the effective date of this article which established a lower standard, the provisions of this article shall be deemed to prevail and such other laws or codes are hereby declared to be repealed to the extent that they may be found in conflict with this code. (Code 2001)

8-518. **GOVERNING BODY; APPEALS**.

(a) Any person, firm, or corporation considering themselves aggrieved by the decision of the public code officer and who desires to present a formal protest to the governing body shall in writing, request a hearing before the governing body within 10 days after receiving notice of the decision from the public code officer, as provided in section 8-512(b). Such protest and request for a hearing shall be filed with the office of the city clerk.

(b) Upon receipt of a protest and request for a hearing, the city clerk shall notify in writing the governing body of such appeal.

(c) The governing body shall, within 30 days of receipt of protest and request for a hearing, determine a date for the hearing.

(d) Notice of the date for the hearing shall be sent to the appellant at least 10 days before the hearing.

(e) Except where an immediate hazard exists as described in section 8-612 of this code, the filing of a protest and request for a hearing before the governing body as specified in subsection (a) shall operate as a stay of the enforcement of the public code officer's order until such time as the governing body has reached a decision on the matter. (Code 2001)

8-519. **RIGHT OF PETITION.** After exhausting the remedy provided in section 8-518, any person aggrieved by an order issued by the public code officer and approved by the governing body after a hearing on the matter, may within 30 days from the date which the order became final petition the district court of the county in which the property is located to restrain the public code officer from carrying out the provision of the order. (Code 2001)

ARTICLE 6. RODENT CONTROL

8-601 **DEFINITIONS.** For the purpose of this article, the following words and phrases shall have the following meanings:

(a) **Building.** Any structure, whether public or private, that is adapted for occupancy as a residence, the transaction of business, the rendering of professional services, amusement, the display, sale or storage of goods, wares or merchandise or the performance of work or labor, including office buildings, public buildings, stores, theaters, markets, restaurants, workshops and all other houses, sheds and other structures on the premises used for business purposes.

(b) **Occupant.** The person that has the use of, controls or occupies any business buildings or any portion thereof, whether owner or tenant. In the case of a vacant business building or any vacant portion of a business building, the owner, agent or other persons having custody of the building shall have the responsibilities of an occupant of a building.

(c) **Owner.** The owner of any building or structure, whether individual, firm, partnership or corporation.

(d) **Rat harborage.** Any condition which provides shelter or protection for rats, thus favoring their multiplication and continues existence in, under or outside a structure of any kind.

(e) **Rat stoppage.** A form of rat-proofing to prevent the ingress of rats into buildings from the exterior or from one building to another, consisting essentially of the closing of all openings in the exterior walls, ground or first floors, basements, roofs, and foundations, that may be reached by climbing or by burrowing, with material or equipment impervious to rat-gnawing. (Code 2001)

8-602. **BUILDING MAINTENANCE**. All buildings and structures located within the present or future boundaries of the city shall be rat-stopped, freed of rats and maintained in a rat-stopped and rat-free condition. (Code 2001)

8-603. **NOTICE TO RAT-STOP; WHEN CITY TO DO WORK.** Upon receipt of written notice from the governing body, the owner of any building or structure specified therein shall take immediate measures for the rat-stoppage of such building or structure. The work shall be completed in the time specified in the written notice, which shall be within 15 days. Or within the time of any written extension thereof that may have been granted by the governing body. (Code 2001)

8-604. **FAILURE TO COMPLY.** If the owner fails to comply with such written notice or extension, then the governing body is authorized to take such action as may be necessary to completely rat-stop the building or structure at the expense of the owner, and the city clerk shall submit bills for the expense thereof to the owner of the building or structure. If the bills are not paid within 60 days, the city clerk shall certify the amount due to the county clerk , the county clerk shall extend the same on the tax roll and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. (Code2001)

8-605. **REPLACE RAT-STOPPAGE.** It shall be unlawful for any occupant, owner, contractor, public utility company, plumber or any other person to remove the rat-stoppage from any building or structure for any purpose and fail to restore the same in a satisfactory condition or to make any new openings that are not closed or sealed against the entrance of rats. (Code 2001)

8-606. **NOTICE TO ERADICATE RATS**. Whenever the governing body notifies in writing the owner of any building or structure theretofore rat-stopped as hereinabove defined, that there is evidence of rat infestation of the building or structure, the owner shall immediately institute appropriate measures for freeing the premises so occupied of all rats. Unless suitable measures for freeing the building or structure of rats are instituted within five (5) days after the receipt of notice, and unless continually maintained in a satisfactory manner, the city is hereby authorized to free the building or structure of rats at the expense of the owner thereof and the city clerk shall submit bills for the expense including the cost of labor, materials, equipment and any actual expense necessary for the eradication measures to the owner of the building or structure and if the same are not paid, the city clerk shall certify the assessment due from the owner to the county clerk at the time other special assessments are due. The county clerk shall extend the same on the tax roll and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. (Code 2001)

8-607. **CONDITIONS CONDUCIVE TO HARBORAGE OF RATS.**

(a) All food and feed kept within the city for feeding animals shall be kept and stored in rat-free and rat-proof containers, compartments, or rooms unless kept in a rat-stopped building.

(b) It shall be unlawful for any person to place, leave, dump or permit to accumulate any garbage or trash in any building or premises so that the same shall afford food and harborage for rats.

(c) It shall be unlawful for any person to accumulate or to permit the accumulation on any premises or on any open lot any lumber, boxes, barrels, bricks, stone or similar materials that may be permitted to remain thereon and which are rat harborages, unless the same shall be placed on open racks that are elevated not less than 12 inches above ground, evenly piled or stacked.

(d) When conditions inside or under any building or structure provide such extensive harborage for rats that the health department deems it necessary to eliminate such harborage, he or she may require the owner to install suitable cement floors in basements or to replace wooden first or ground floors or require the owner to correct such other interior rat harborage as may be necessary in order to facilitate the eradication of rats in a reasonable time and thereby to reduce the cost of such eradication. (Code 2001)

8-608. **INSPECTIONS.** The public code officer is empowered to make such inspections and re-inspections of the interior and exterior of any building or structure as in his or her opinion may be necessary to determine full compliance with this article. (Code 2001)

ARTICLE 7. INSURANCE PROCEEDS FUND

8-701. **SCOPE AND APPLICATION.** The city is hereby authorized to utilize the procedures established by K.S.A. 40-3901 et seq., whereby no insurance company shall pay a claim of a named insured for loss or damages to any building or other structure located within the city, arising out of any fire, explosion, or windstorm, where the amount recoverable for the loss or damage to the building or other structure under all polices is in excess of 75 percent of the face value of the policy covering such building or other insured structure, unless there is compliance with the procedures set out in this article. (Code 2001)

8-702. **LIEN CREATED.** The governing body of this city hereby creates a lien in favor of the city on the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure located within the city, caused by or arising out of any fire, explosion, or windstorm, where the amount recoverable for all the loss or damage to the building or other structure under all policies is in excess of 75 percent of the face value of the policy(s) covering such building or other insured structure. The lien arises upon any unpaid tax, special ad valorem levy, or any other charge imposed upon real property by or on behalf of the city which is an encumbrance on real property, whether or not evidence by written instrument, or such tax, levy, assessment, expense or other charge that has remained un-discharged for at least one year prior to the filing of a proof of loss. (Code 2001)

8-703. **SAME; ENCUMBRANCES.** Prior to final settlement on any claim covered by section 8-702, the insurer or insurers shall contact the county treasurer, Wabaunsee County, Kansas, to determine whether any such encumbrances are presently inexistence. If the same are found to exist, the insurer or insurers shall execute and transmit in an amount equal to that owing under the encumbrances a draft payable to the county treasurer, Wabaunsee County, Kansas. (Code 2001)

8-704. **SAME; PRO RATA BASIS.** Such transfer of proceeds shall be on a pro rata basis by all insurance companies insuring the building or other structures. (Code 2001)

8-705. **PROCEDURE.**

(a) When final settlement on a covered claim has been agreed to or arrived at between the named insured or insured's and the company or companies, and the final settlement exceeds 75% of the face value of the policy covering any building or other insured structure, and when all amounts due the holder of a first real estate mortgage against the building or other structure, pursuant to the terms of the policy and endorsements thereto, shall have been paid, the insurance company or companies shall execute a draft payable to the city clerk in the amount equal to the sum of 15% of the covered claim payment, unless the chief building inspector of the city has issued a certificate to the insurance company or companies that the insured has removed the damaged building or other structure, as well as all associated debris, or repaired, rebuilt, or otherwise made the premises safe and secure.

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

(c) Upon the transfer of the funds as required by subsection (a) of this section, the insurance company shall provide the city with the name and address of the named insured or insured's, the total insurance coverage applicable to said building or other structure, and the amount for the final settlement agreed to or arrived at between the insurance company or companies and the insured or insured's, whereupon the chief building inspector shall contact the named insured or insured's by certified mail, return receipt requested, notifying them that said insurance proceeds have been received by the city and appraise them of the procedures to be followed under this article. (Code 2001)

8-706. **FUND CREATED; DEPOSIT OF MONEYS.** The city clerk is hereby authorized and shall create a fund known as the "Insurance Proceeds Fund." All moneys received by the city clerk as provided for by this article shall be placed in said fund and deposited in an interest-bearing account. (Code 2001)

8-707. **BUILDING INSPECTOR; INVESTIGATION, REMOVAL OF STRUCTURE.**

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

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

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

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

(e) Upon notification to the city clerk by the chief building inspector that no proceedings shall be initiated under K.S.A. 12-1750 et seq., as amended, the city clerk shall return all such moneys received, plus accrued interest, to the insured or insured's as identified in the communications from the insurance company or companies. Such return shall be accomplished within 30 days of the receipt of the moneys from the insurance company or companies. (Code 2001)

8-708. **REMOVAL OF STRUCTURE; EXCESS MONEYS.** If the chief building inspector has proceeded under the provision of K.S.A. 12-1750 et seq., as amended, all moneys in excess of that which is ultimately necessary to comply with the provisions for the removal of the building or structure, less salvage value, if any, shall be paid to the insured. (Code 2001)

8-709. **SAME; DISPOSITION OF FUNDS.** If the chief building inspector, with regard to a building or other structure damages by fire, explosion, or windstorm, determines that it is necessary to act under K.S.A. 12-1756, any proceeds received by the city clerk under the authority of section 8-705(a) relating to that building or other structure shall be used to reimburse the city for any expenses incurred by the city in proceeding under K.S.A. 12-1756. Upon reimbursement from the insurance proceeds, the chief building inspector shall immediately effect the release of the lien resulting there from. Should the expenses incurred by the city exceed the insurance proceeds paid over to the city clerk under section under section 8-705(a), the chief building inspector shall publish a new lien as authorized by K.S.A. 12-1756, in an amount equal to such expenses incurred. (Code 2001)

8-710. **EFFECT UPON INSURANCE POLICIES.** This article shall not make the city a party to any insurance contract, nor is the insurer liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy. (Code 2001)

8-711. **INSURERS; LIABILITY.** Insurers complying with this article or attempting in good faith to comply with this article shall be immune from civil and criminal liability and such action shall not be deemed in violation of K.S.A. 40-2404 and any amendments thereto, including withholding payments of any insurance proceeds pursuant to this article, or releasing or disclosing any information pursuant to this article. (Code 2001)

CHAPTER IX. MUNICIPAL COURT

Article 1, General Provisions

ARTICLE 1. GENERAL PROVISIONS

9-101. **MUNCIPAL COURTS ESTABLISHED.** There is hereby established a municipal court for the City of Alta Vista, Kansas. The municipal court shall have jurisdiction to hear and determine cases involving violations of the ordinances of the city. (Code 2001)

9-101. **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 2001)

9-102. **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 2001)

9-103. **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 2001)

9-105. **SAME; ABSENCE VACANCY; PRO TEM**. In the event the municipal judge is temporarily unable to preside due to absence, illness, or disqualifications, 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 2001)

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 2001)

9-107. **SAME; SALARY**. The municipal judge shall receive a salary as shall be fixed by ordinance. (Code 2001)

9-108. **COURT CLERK**. There is hereby established the office of the clerk of the municipal court of the City of Alta Vista, Kansas, which office shall be filled by appointment by the Mayor of the city. The duties of the office 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 deposit all fines and forfeited bonds paid into the court. The clerk shall make reports to the judicial administrator on such forms furnished by the judicial administrator, and approved by the Supreme Court.

(b) 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 2001)

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 2001)

9-110. **SAME; FAILURE TO PAY SEPARTE 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 2001)

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 up to $250.00. (Code 2001)

9-112 **COURT COSTS**. In each municipal court case where the accused person pleads guilty or nolo contendere, or is found guilty upon trial, such person shall be assessed costs for the administration of justice in the municipal court of the city, and such costs shall be determined by ordinance. In addition thereto, the municipal judge of the city is authorized and empowered to assess witness fees and mileage as permitted by applicable law now in existence or hereafter enacted. (C.O. No.89-1, Sec. 2)

CHAPTER X. LAW ENFORCEMENT

Article 1. Sheriff Department Agreement

10-101. **LAW ENFORCEMENT AGREEMENT.** That an agreement between the City of Alta Vista and Wabaunsee County Commissioners and the Wabaunsee County Sheriff's Department has been reached to provide Law enforcement for the City of Alta Vista, Wabaunsee County, Kansas.

(a) **DEFINITIONS**. As used in this article shall mean the following.

(1) **City**. The City of Alta Vista

(2) **COUNTY.** Wabaunsee County (Code 2009)

10-102. **COUNTY AGREES TO:**

(a) Provide either Certified Law Enforcement or Reservists to act as the enforcement officers for the city, and that a list of the officers that will be doing the patrolling in the city will be provided in writing to the city clerk.

(b) To provide approximately 50 hours of patrolling per month.

(c) The county may invoice the city for actual hours worked by the Officers if they are serving papers or tickets involving city code violations. The invoices will be submitted to the city clerk by the 5th of each month.

(d) The County agrees that all subpoenas properly served for the City court of Alta Vista will be honored.

(e) The County agrees that the Wabaunsee County Sheriff, or his designated agent, is responsible for any and all disciplinary actions regarding an Officer's performance when working as the city law enforcement officer.

(f) That the County will issue the necessary identification cards for the officers to carry on their person and for their personnel records (Agreement July 2005)

10-103. **CITY OF ALTA VISTA AGREES.**

(a) That the contact person for the county will be the Wabaunsee County Sheriff, and that all complaints, concerns, commendations, etc., regarding an Officer's performance are to be addressed directly with him and not the Officer personally.

(b) All traffic complaints regarding Driving under the Influence or that require a sentence in the county jail and all Criminal Complaints will be prosecuted in the District Court of Wabaunsee County, Kansas. (Agreement July 2005)

10-104. **PARTIES MUTUALLY AGREE.** It is mutually agreed by the parties hereto:

(a) That all contracts entered into under the provision of the agreement between the city and the county shall be binding upon the present governing body of the city and its successors. All inquires relating to actual hours worked by officers are to be made to the Sheriff of Wabaunsee County.

(b) Term of agreement is from July 1 to June 30. All hours invoiced to the city will be due and payable by the 15th day of each month of each year the agreement is in effect.

(c) That the number of hours to be scheduled may be changed by the city by submitting a letter requesting such change to the Sheriff of Wabaunsee County upon city letterhead, signed by the mayor and attested to by the city clerk authorizing such a change.

(d) That either the County or City may terminate the agreement by giving written notice to the other party no later than January 1st of the calendar year in which the termination is to take place. (Agreement July 2005)

10-105. **LAW ENFORCEMENT PERSONNEL; GENERAL DUTIES**. It shall be the general duty of 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 of city codes.

All persons arrested for violation of any law of the state and who shall not be charged with an offense under any law or code 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 2009)

10-106. **RULES AND REGULATIONS**. The law enforcement personnel assigned to the city to do patrolling will use the currently approved and adopted "City Code Book", The Standard Traffic Code Book", The Public Offense Code Book"(Code 2009)

10-107. **FINES AND COURT COST.** Shall be set by ordinance and adopted by the governing body. Copies of such will be supplied to the law enforcement personnel. (Ordinance 1033-2007)

CHAPTER XI. PUBLIC OFFENSES

Article1. Uniform Offense Code
Article 2. Local Regulations
Article 3. Curfew for Minor Children
Article 4 Loud Sound Amplification Systems Prohibited

ARTICLE 1. UNIFORM OFFENSE CODE

11-101. **INCORPORATIING UNIFORM OFFENSE CODE**. There is hereby incorporated by reference for the purpose of regulating public offenses within the corporate limits of the City of Alta Vista, Kansas, that certain code known as the "Uniform Public Offense Code" Edition of 2009, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas. Save and except such articles, sections, parts or portions as are hereby 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 Alta Vista, 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. (Code2001)

ARTICLE 2. LOCAL REGULATIONS

1-201 **AIRGUN; SLINGSHOT**. Any person who shall discharge or use any air gun, spring gun, or slingshot on the streets, alleys or public grounds, or in public parks of the city, shall, upon conviction thereof, be fined in any sum not less than $1 or more than $25. Provided that it shall be unlawful for any minor persons, and subject to the penalty of this section, to have in his or her possession or under his or her control in any public place or grounds of the city any air gun or blow pipe, slingshot, or similar device or article used for projecting stones, pebbles, shots, peas, beans or other articles within the city limits. (Code 2001)

1-202. **PROPERTY DESTRUCTION; TRESPASS**. Any person who shall maliciously and mischievously enter the enclosure or trespass upon the property of another and pick, destroy or carry away any of the fruit, flowers or products of any tree, shrub, bush, plant or vine standing on or attached to the land thereof shall, upon conviction thereof, be fined in any sum not less than $5 nor more that $50. (Code 2001)

11-203 **PAINTING AND STAINING, ECT.** Any person who shall mark by painting or staining or display in words, figures, letters or devices or shall post bills or other signs by way of advertising or otherwise on any fence, wall building, post or place not his own within the city without proper authority shall, upon conviction thereof, be fined in any sum not less than $5 nor more than $50. (Code 2001)

11-204. **THROWING AGAINST BUILDINGS OR IN STREETS**. Any person who shall in the city throw stones, missiles, hard objects of any kind, or who shall unlawfully break down or use in any degree of force against any building or structure in the city or fixtures attached thereto, or who shall throw any stone, brick, or other hard object in or across any street, alley or vacant premises to the injury of any property thereon or adjacent thereto, shall, upon conviction thereof, be fined in any sum not less than $5 nor more that $50. (Code 2001)

11-205 **TRESPASSING ON UTILITY PROPERTY**. Any person or persons, who shall, without authority of the city, climb or be upon or deface or damage the water tower or other part of the waterworks or sewage treatment plant or the city hall, upon conviction thereof, be fined in any sum not less than $5 or more than $50. (Code 2001)

ARTICLE 3. CURFEW FOR MINOR CHILDREN

11-301 . **CURFEW FOR MINOR CHILDREN**.

(a) It shall be unlawful for any minor under the age of 18 years to loiter, idle, wander, stroll, or play in or upon the public streets, highways, roads, alleys, parks, playgrounds, vacant lots, sidewalks, or other public grounds, public place or public buildings, of or in the city, Whether on foot or in a vehicle, or by any other means during the following periods of time:

(b) Between the hours of 10:00 p.m. on any day and 6:00 a.m. of the following day except on Fridays and Saturdays, when the hours shall be 12:00 midnight to 6:00 a.m. of the following day

(c)The provisions of this section shall not apply in the following instances.

(1) When the minor is accompanied by his or her parent, guardian or other adult person having the lawful care and custody of the minor.

(2) When a minor is upon an emergency errand directed by his or her parents or guardian or other adult person having the lawful care and custody of such minor, without any detour or stop.

(3) When the minor is attending an official school, religious or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning directly home without any detour or stop from an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or other similar entity that takes responsibility for the minor.

(4) When the minor is engaged in an employment activity or going to or returning directly from lawful employment activity without detour or stop, that makes it necessary to be in the above referenced places during the prescribed period of time. (OR1035; Dec 2007)

11-302. **SAME; RESPONSIBILITY OF PARENT OR PERSON HAVING CUSTODY.**

(a) Except in circumstances set out in Section One (b) of this ordinance, it shall be unlawful for the parent, guardian, or other adult person having the care and custody of a minor under the age of 18 years to permit such minor to loiter, idle, wander, stroll, or play upon in or upon public streets, highway, roads, alley, parks, playground, vacant lots, sidewalks, or other public grounds, public places or public buildings, of or in the city, during the following periods of time.

(1) Between the hours of 10:00 p.m. on any day and 6:00 a.m. of the following day except on Fridays and Saturdays, when the hours shall be 12:00 midnight to 6:00 a.m. of the following day. (OR 1035; Dec 2007)

11-303. **SAME; SUPENSION**. The law enforcement officer, or the Mayor of said city, on specific occasions, and in response to written requests submitted not less than 24 hours prior to the occasion, shall have the authority to suspend the hour of curfew as stated herein. (OR 1035; Dec 2007)

11-304. **SAME; PENALTY.**

a. Any minor violating the provisions of the section shall be dealt with in accordance with juvenile Court law and procedure. Any Law Enforcement officer finding a minor under the age of 18 years violating the provision of this chapter shall warn the child to desist from such violations and immediately return home, and shall cause a written notice to be served upon the parent, guardian or person in charge of such child, setting forth the manner in which the provisions of this ordinance have been violated. For purpose of this section, notice shall be deemed properly served upon the parent, guardian or person in charge of a child if a copy thereof 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 person having the care and custody of a child who shall permit, or by insufficient control allows such child to violate the provisions of the chapter after receiving written notice that the child has previously violated such provision shall be subject to a mandatory minimum fine of $50.00 and a maximum fine of $500.00 for the first offense and a mandatory, minimum fine of $100 and a maximum fine of $500 for a second or subsequent offense. (OR 1035; Dec 2007)

ARTICLE 4

11-401. **LOUD SOUND AMPLIFICATION SYSTEMS PROHIBITED**.

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

(b) Sound amplification systems means any radio, tape player, compact disc player, loud speaker, or other electronic device used for the amplification of sound.

(c) Plainly audible means any sound disc player, loudspeaker, or other electronic device used for the amplification of sound produced by a sound amplification system from within the vehicle, which clearly can be heard at a distance of 50 feet or more. Measurement standards shall be by the auditory senses, based upon direct line of sight. Words or phrases need not be discernible and bass reverberations included. The motor vehicle may be stopped, standing, parked or moving on a street, highway, alley, parking lot, or driveway.

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

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

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

(3) The vehicle was owned and operated by the City of Alta Vista, Wabaunsee County, Kansas or a gas, electric, communications or refuse company;

(4) The system was used for the purpose of giving instructions, directions, talks, addresses, lectures or transmitting music to any persons or assemblages of persons in compliance with the ordinances of the City of Alta Vista. (Ord 984; July 2001)

11-402. **SAME; PENALTY**. Any person, individual, partnership, corporation or association who violates any of the provisions of this ordinance is guilty of an ordinance violation, and upon conviction shall be punished by a fine not to exceed $500 or by imprisonment of not more than six months, or by both such fine and imprisonment. Each day any violation hereof is found to exist or continues to exist shall be a separate offense and punishable as such hereunder. (Or 984; July 2001)

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 2001)

12-102. **LAW ENFORCEMENT JURISDICTION OVER PARKS**. The city shall have regulations governing any public parks belonging to the city and law enforcement officers of the city shall have full power to enforce city laws governing city parks and shall maintain order there. (Code 2001)

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 2001)

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 2001)

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) Subsection (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. (Code2001)

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 2001)

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 2001)

12-108. **CAMPING PROHIBITED.** Overnight camping is hereby prohibited in city parks except where posted. (Code 2001)

12-109. **SANITATION.** All waste material, paper, trash, rubbish, and 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 2001)

12-110. **PRESERVATION OF NATURAL STATE**. It shall be unlawful for any person, except duly authorized city employees, to take, injure, disturb any live or dead tree, plant, shrub, or flower, or otherwise interfere with the natural state of city parks. (Code 2001)

12-111. **GENERAL REGULATIONS**. The city may post such rules and regulations, as are approved by the governing body, pertaining to the use of the city parks in a conspicuous place in each city park. Violations of these posted rule shall constitute violation of this code. (Code 2001)

12-112. **CURFEW IN CITY PARK; PENALTY.**

(a) **Park Description**. The Alta Vista City Park as used herein is described as that area in the city commonly known and used as the city park, being bounded on the west by Logan Street, on the east by Park Street, on the north by Block 1 of Anderson's Second Addition and on the south by Block 31 of Langvardt's Second Addition.

(b) **Curfew**. For the purpose of protecting the public property of the city, and promoting the general health and welfare of the citizens of the city, there is hereby established a time of curfew in the city park area above described. The curfew shall be effective each day at 9:00 p.m. on the days Central Standard Time (CST) is effective and at 10:00 p.m. on days Central Daylight Savings Time (CDST) is effective, and shall remain in effect until the following morning at 7:00 a.m.

(c) **Occupancy Prohibited**. During the hours the curfew is effective it shall be unlawful for any person to enter, use, occupy or be present in the city park, other than officers and employees of the city for official city purposes, unless written permission is obtained from the park . commissioner or in the absence of the park commissioner, written permission from the mayor of the city or the mayor's designee.

(d) **Penalties**. Persons convicted of violating the provisions of this article shall be fined a sum not exceeding $200, confined in the jail of Wabaunsee County, Kansas, for a term not exceeding 10 days, sentence to be any combination of fine, imprisonment or both. (Code2001)

CHAPTER XIII. STREET AND SIDEWALKS

Article 1. Sidewalks
Article 2. Streets
Article 3. Trees and Shrubs
Article 4 Snow and Ice
Article 5. Street Numbering System

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. (Code 2001)

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; Code 2001)

13-103. **SAME;SPECIFICATIONS**. Hereafter all sidewalks shall be of single-course construction and shall be constructed and laid in accordance with the standard plans and specifications hereby adopted IBC Code 2003 by reference and filed in the office of the city clerk as provided by K.S.A. 12-1802. It shall be unlawful for any person, firm or corporation to construct, reconstruct or repair any sidewalk, except as provided by this article. (Code 2001)

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 it's discretion, by a resolution, order such sidewalk construction as herein provided. (K.S.A. 12-1803; Code 2001)

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; Code 2001)

13-106. **NOTICE OF 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 reconstruct the sidewalk at his or her own expense. If the sidewalk is not constructed by the property owner within the time specified, the governing body shall cause the work to be done by contract. (K.S.A. 12-1805; Code 2001)

13-107. **RIGHT OF ABUTTING OWNER**. Nothing in this article shall be construed to prohibit the owner of property abutting on a street, who desires to construct or reconstruct a sidewalk at his or her own expense and in accordance with official plans and specifications for the purpose and which meet such other requirements as would have to be met if the sidewalk were constructed or reconstructed by the city, to construct or reconstruct a sidewalk without any petition or a condemning resolution by the governing body. If such property owner desires the sidewalk to be constructed and reconstructed by the city and an assessment levied as provided by law in other cases, he or she shall file a request with the governing body. The governing body, in its discretion, may provide for the construction or reconstruction of the sidewalk requested in the same manner as in other cases where citizens or taxpayers petition the governing body. (K.S.A. 12-1806; Code 2001)

13-108. **REPAIRS BY OWNER OR CITY**. It shall be the duty of the owner of the abutting property to keep this sidewalk in repair, but the city may, after giving five day's 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 assessed against the lot or piece of land abutting on the sidewalk so repaired as may be provided by law. (K.S.A. 12-1808; Code 2001)

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 entered into by the city for any such purpose a statutory lien bond required by K.S.A. 60-111 shall be furnished. (Code2001)

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 2001)

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 the sidewalks shall have been submitted by the owner or his or her contractor and approved by the governing body. (Code 20010

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 2001)

13-202. **SAME BOND.**

(a) No permit authorized in this article shall be issued until the applicant has given to the city a good and sufficient bond in the sum of $5,000 conditioned that the applicant will faithfully comply with all the terms and conditions of this article, and will indemnify and hold the city harmless against all costs, expenses, damages and injuries by the 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 2001)

13-203. **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 2001)

13-204. **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 2001),

13-205. **CUTTING CURBS; PAVEMENT.**

(a) No person shall cut any curb, gutter, pavement, blacktop, and 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 contractor 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 the streets or sidewalks with like materials, subject to approval of the street superintendent. (Code 2001)

13-206. **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 2001)

13-207. **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 2001)

13-208. **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 2001)

13-209. **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 2001)

13-210 **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 2001)

13-211. **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 2001)

13-212. **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 2001)

13-213. **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 2001)

13-214. **HAULING LOOSE MATERIAL**. It shall be unlawful to haul over the streets or alleys of this city any loose material of any kind except in a vehicle so constructed or maintained as to prevent the splashing or spilling of any of the substances therein contained upon the streets or alley. (Code 2001)

13-215. **DRIVEWAY ENTRANCES**. The owner of any property abutting on any street, or his duly authorized agent or contractor, may in accordance with section 13-201 of this article, cut on and remove any curb and remove any sidewalk to construct a driveway entrance to his premises. The sidewalk shall be reconstructed and replaced in accordance with the specifications required by ordinance for driveway entrances across sidewalks. The curb shall be entirely cut and removed and the curb at each side of the entrance shall be replaced by section curb rounded off on a radius of three (3) feet The driveway entrances shall not be constructed to change any established sidewalks except with the prior approval of the street commissioner. (K.S.A. 12-848 ; Ord. 994 April 2002)

13-216. **CROSSING CURBS UNLAWFUL.** It shall be unlawful for any person to drive any vehicle over or across any curb or curb and gutter where there is no established or improved driveway entrance or drive across any sidewalk when the same is not constructed as a part of the driveway entrance. (K.S.A. 12-848; Ord. 994 April 2002)

13-217. **CONSTRUCTION OF DRAINAGE CULVERTS**. It shall be unlawful for any person, firm or corporation to place any building materials such as stones, planks, dirt, sand or gravel in any gutter or drainage ditch or in any other manner to interfere with the natural drainage of any ditch or drain, The owner of abutting property, when it shall be impracticable to open or construct an entrance across any ditch or drain, on application to and approval of the governing body, may construct or install a culvert crossing. The governing body of the city may, if it deems it necessary, prepare a resolution declaring it necessary to construct a culvert (or culverts) on a uniform line and grade and of a proper size to handle drainage at any private driveway entrance or entrances into any street of dirt, sand or gravel construction in the city, The owner of abutting land shall pay one-half (1/2) the cost of all culverts in the manner provided by law. (K.S.A. 121-848; 12-2301:2305: Ord. 994; April 2002)

ARTICLE 3. TREES AND SHRUBS

13-301**. DEFINITIONS.** Street trees are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the city.

Park trees are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the city, or to which the public has free access as a park.

13-302. **CREATION AND ESTABLISHMENT OF A CITY TREE BOARD**. There is hereby created and established a City Tree Board for the City of which shall consist of five members, local citizens and area residents of this city, who shall be appointed by the mayor with the approval of the Council. The members shall come from different interest groups including homeowners, tree professionals, street department, and city government.

13-303. **TERM OF OFFICE**. The term of the five persons to be appointed by the mayor shall be three years except that the term of two of the members appointed to the first board shall be for only one year and the term of two members of the first board shall be for two years. In the event that a vacancy shall occur during the term of any member, his successor shall be appointed for the unexpired portion of the term.

13-304. **COMPENSATION.** Members of the board shall serve without compensation.

13-305. **DUTIES AND RESPONSIBILITIES.** It shall be the responsibility of the Board to study, investigate, counsel, develop and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets, and in other public areas. Such plan will be presented annually to the City Council and upon their acceptance and approval shall constitute the official comprehensive city tree plan.
The Board shall promote and supervise the establishment of a tree inventory for Street and Park Trees. The inventory shall be updated every 3 years.
The Board, when requested by the City Council, shall consider, investigate, make finding, report and recommend upon any special matter or question coming within the scope of its work.

13-306. **OPERATION**. The Board shall choose its own officers, make its own rules and regulation, and keep a journal of its proceedings. The majority of the members shall be a quorum for the transaction of business.

13-307. **TREE SPECIES TO BE PLANTED.** The City Tree Board develops and maintains a list of desirable trees for planting along streets in three size classes based on mature height: small (under 20 feet), medium (20 to 40 feet) and large (over 40 feet). Efforts shall be made to ensure a sufficient diversity of tree species. Lists of trees not suitable for planting will also be created by the Tree Board.

13-308. **SPACING.** The spacing of street trees will be in accordance with the three species size classes listed in Section 7 of this ordinance, and no trees may be planted closer together than the following: small trees, 20 feet; medium trees, 30 feet; and large trees, 40 feet; except in special plantings designed or approved by a landscape architect working on behalf of the city or designated community forest manager.

13-309. **DISTANCE FROM CURB AND SIDEWALK.** The distance trees may be planted from curbs or curb lines and sidewalks will be in accordance with the three species size classes listed in Section 7 of this ordinance, and no trees may be planted closer to any curb or sidewalk than 2 feet for small trees, 3 feet for medium or 4 feet for large trees.

13-310. **DISTANCE FROM STREET CORNERS AND FIRE PLUGS.** No street tree shall be planted within 35 feet of any street corner, measured from the point of nearest intersecting curbs or curb lines. No street tree shall be planted within 10 feet of any fireplug.

13-311. **UTILITIES.** No street trees other than those species accepted as small trees by the Tree Board may be planted under, or within 10 feet of, any overhead utility wire.

13-312. **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 public safety or to preserve or enhance the symmetry and beauty of such public grounds.
The City Tree Board 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. This section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of said trees is in accordance with Sections 7 through 11 of this ordinance.

13-313. **PRUNING STANDARDS.** All tree pruning on public property shall conform to the ANSI A300 standards for tree care operations.

13-314. **TREE TOPPING.** It shall be unlawful as a normal practice for any person, firm, or city department to top any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter with the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Crown reduction by a qualified arborist may be substituted, where appropriate. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the Tree Board.

13-315. **PRUNING AND CORNER CLEARANCE.** Every owner of any tree overhanging any street or right-a-way within the city shall prune the branches so that such branches shall not severely 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 thirteen feet (13') above street surface or eight feet (8') above the sidewalk surface. Said 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 or sight triangle at intersections.
Tree limbs that grow near high voltage electrical conductors shall be maintained clear of such conductors by the electric utility company in compliance with any applicable franchise agreements. A utility tree trimming policy must be reviewed by the utility company and City Tree Board prior to any trimming by the utility company.

13-316. **DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY.** The city shall have the right to cause the removal of any dead, diseased or high risk trees on private property within the city, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees with the city. The City Tree Board will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within 30 days after the date of service of notice. In the event of failure of owners to comply with such provisions, the city shall have the authority to remove such trees and charge the cost of removal on the owner's property tax notice.

13-317. **REMOVAL OF STUMPS.** All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

13-318. **PROTECTION OF TREES.** In order to maintain the overall forest, reasonable efforts shall be made to replace trees that are removed and to protect quality trees that are endangered.

Trees removed by decision of the City Tree Board or by natural causes shall be replaced somewhere in the forest on a one-for-one basis within one year. The location and species of any replacement tree shall be determined by the Tree Board. Trees of desirable species and good health shall be protected as much as possible from damage during construction, sidewalk repair, utilities work above and below ground, and other similar activities. The zone of protection shall include the ground within the critical root radius. Critical root radium (CRR) is defined as a circular area nearest the stem that is critical for the stability and vitality of the tree. Critical root radius is determined by the formula of CRR=DBH (diameter at breast height) x 1.5 foot per inch diameter.

13-319. **INTERFERENCE WITH CITY TREE BOARD.** It shall be unlawful for any person to prevent, delay or interfere with the City Tree Board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any street trees, park trees, or trees on private grounds, as authorized in this ordinance.

13-320. **ARBORISTS LICENSE AND BOND.** It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing street or park trees within the city without first applying for and procuring a license. The license fee shall be $25 annually in advance; provided, however, that no license shall be required of any public service company including electric utilities and their agents and contractors or city employee doing such work in the pursuit of their public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of $300,000 for bodily injury and $100,000 property damage indemnifying the city or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

13-321. **REVIEW BY CITY COUNCIL.** The City Council shall have the right to review the conduct, acts, and decision of the City Tree Board. Any person may appeal from any ruling or order of the City Tree Board to the City Council who may hear the matter to make final decisions.

13-322. **PENALTY.** Any person violating any provision of this ordinance shall be, upon conviction or a plea of guilty, subject to a fine not to exceed $1,000.

ARTICLE 4. SNOW AND ICE

13-401. **SNOW AND ICE TO BE REMOVED.**

(a) It shall be unlawful for the owner and/or the occupant of any lots abutting upon the sidewalks to fail to cause to be removed from such sidewalks all snow and ice within 12 hours from the time that the snow fall or ice storm ceases. If the snow falls or ice accumulates upon the sidewalks in the nighttime, removal of same must be made within 12 hours after sunrise on the following day.

(b) It shall be unlawful for any person to place snow removed from private property upon any public street, alley or sidewalk.

(c) Emergency Snow Route. South from K Hwy 4 to the North end of Main Street and West from North Munkers Creek Road to the West end of Center will be the designated Emergency Snow routes within the city limits of the City of Alta Vista. All vehicles should be removed from said Emergency Snow Route so that snow can be bladed and removed.

13-402 .**SAME; EXCEPTION;ALTERNATE REMEDY.** Where there shall be ice or compacted snow on any such sidewalk of such a character as to make it practically impossible to remove the same, the sprinkling of ashes, sand or other non-corrosive chemicals on the accumulation of ice or snow in such a manner as to make such sidewalk reasonably safe for pedestrian travel shall be deemed a sufficient compliance with the provisions of this article until the ice or snow can be removed. (Code 2001)

13-403. **SAME; PENALTY.** That any person violating the provisions of section 13-401 shall, upon conviction, be fined $25. (Code 2001)

13-404 **REMOVAL MAY BE MADE BY CITY.** If the owner or occupant of any lot or lots shall refuse or neglect to clean or remove from the sidewalk abutting the lot or lots all snow and ice within the time specified, the city may cause such snow and ice to be removed from sidewalks and the cost thereof shall be assessed against such abutting lot or lots, and the city clerk shall certify the same to the county clerk for collection as provided by law. (Code 2001)

13-405. **COSTS ON TAX ROLLS.** The city clerk shall, at the time of certifying other city taxes to the county clerk, certify the unpaid costs for removal of snow or ice performed under the authority of section 13-404 and the county clerk shall extend the same on the tax roll of the county against the lot or parcel of ground. The cost of such work shall be paid from the general fund or other proper fund of the city, and such fund shall be reimbursed when payments therefore are received or when such assessments are collected and received by the city. (Code 2001)

ARTICLE 5. STREET NUMBERING SYSTEM

13-501. **STREETS NUMBERS REQUIRED.** All lots and parts of lots abutting any street or avenue in the city shall be numbered and all business buildings, dwelling houses and other structures located thereon shall have numbers affixed thereto by the owners thereof, as herein after designated. (K.S.A. 12-8448; Code 2001)

13-502. **ALLOCATION OF NUMBERS.** Each 25 foot space shall constitute a whole number. The southerly city limits shall constitute the case line for all streets and avenues in the city which run north and south. Each 25 foot space on the west side of the streets and avenues shall be numbered with odd numbers and each 25 foot space on the east side of the streets and avenues shall be numbered with even numbers; such space between the southerly city limits and Elm Street shall be numbered 100 and upward, those between Elm Street and Adams street 200 and upward, and so on north to the north city limits. (K.S.A. 12-848; Code 2001)

13-503. **BASELINE OF NUMBERING SYSTEM.** The west westerly city limits shall constitute the base line for all streets running east and west. Each 25 foot space on the north side of the streets and avenues shall be numbered with odd numbers and each 25 foot space on the south side of streets and avenues shall be numbered with even numbers. Each 25 foot space in the first block east of the westerly city limits shall be number 100 upward, 200 and upward in the second block and so on to the east city limits. (K.S.A. 12-848; Code 2001)

13-504. **TWO STRUCTURES ON ONE LOT.** In case there are two or more dwellings, building or rooms,. Including street stairway entrances, located on the same 25 foot space, the second and other dwelling, building or entrance shall be numbered the same as the first with the number one-half, or other fraction depending on the quantity of numbers needed, being added. (K.S.A. 1848 Code 2001)

13-505. **TRAILER COURTS.** Trailer courts shall have one number, each trailer space shall have the same number with alphabetic letter assigned to each trailer space. (K.S.A. 12-848; Code2001)

13-506. **RESOLUTION OF DISPUTES.** In case of doubt, or dispute, or if a question arises as to proper number to be assigned to any lot or building or structure, the city clerk of the city shall decided and fix the number of such lot, building or structure and such decision shall; be final. (K.S.A. 12-848; Code 2001)

13-507. **EXTENSION AND INTERSECTION OF NUMBERS.** Streets and avenues which do not intersect or extend to the base street shall be numbered as if they did so extend to and intersect the base street and shall be numbered with the same hundred numbers of corresponding blocks and adjacent to streets that so intersect or extend to the base street or avenue. (K.S.A. 12-848; Code 2001)

13-508. **NUMBER, SIZE AND DESCRIPTION.** The numbering placed on any building or structure shall be at least six inches in height, made of non-rusting reflective material and shall be of such color and placed on the building or other structure or entrance intended to be numbered. (K.S.A. 12-848; Code 2001)

ARTICLE 6 FENCING

13-601. **DEFINITIONS.** Unless the context clearly indicates otherwise, the meaning of words, and terms as used shall be as follows:

(1) **Adjacent Grade** shall be construed as the average grade measured at a point three (3) feet on either side of the fence. In the case of a fence on a retaining wall, adjacent grade shall be the grade of the top of the wall.

(2) **Decorative Fence** shall mean any fence not exceeding 3 ½ feet in height measured from the finished grade of the lot or property upon which the fence is being erected and the solid area there of does not exceed 50% of the total fence surface. Such fences are intended to add beauty and should not substantially block the view so as to maintain the open space characteristic provided by applicable zoning standards.

(3) **Fence** any permanent partition, structure, or gate erected as a dividing marker, barrier, or enclosure, including hedges or living bushes or shrubs, encircling either wholly or any portion of any area.

(4) **Height** the average distance between the top element in the fence and the adjacent grade over a straight section of fence with no corners.

(5) **Protective Measures Fence** a fence erected for the express purpose of protecting an enclosed area and the property therein, or a fence intended to deny access to a dangerous property or location.

13-602. **REQUIREMENT** It shall be unlawful for any person, firm or corporation to construct, enlarge, alter or replace any fence upon property within the corporate limits of the City of Alta Vista, Kansas, except in accordance with the requirements and restrictions herein provided.

13-603. **PERMIT REQUIRED** Any person desiring to erect, construct, enlarge, alter or replace any fence upon property within the corporate limits of Alta Vista, Kansas shall first apply to the zoning compliance officer for the city for a permit to do so. Application for such permit shall contain any and all information, including drawings, required and necessary for the determination of whether the erection of such fence would be contrary to the provisions of this ordinance or the laws of the State of Kansas. Any permit issued in which construction has not been completed with in six (6) months from the date of issuance shall expire. Permit extensions not to exceed one (1), six (6) month extension can be granted.

13-604. **EXCEPTIONS** no fence other than Decorative Fences shall be built within the front yard of any residence. Fences constructed on any lot, and specifically corner lots, will be subject to, and shall not be erected in such a manner as to impede vision between a height of 2 ½ feet and 8 feet above the grades of the bottom of the curb (commonly referred to as "the Visibility Triangle"). The Visibility Triangle shall be measured from the point of the intersection 90 feet in each direction measured along the centerline of the streets then connecting the two points by a line diagonally across the corner lot. At the intersection of major streets, the 90 foot distance shall be increased to 120 feet.

13-605. **SETBACKS FROM PROPERTY LINES** no fence, landscape wall, or decorative posts shall be located closer than two (2) feet from the front yard or street yard property line. Fences may be located up to but not on or over any property line abutting a side or rear yard. Applicants for permits to build shall be responsible for finding and exposing or establishing through a survey the boundaries of the property upon which the fence is to be constructed. Fencing within the public right of way or within a city utility easement is permitted only upon issuance of a valid Encroachment Permit approved by the City Council. Applicant will be responsible to repair or rebuild any fence constructed within a public right of way or city utility easement damaged or destroyed by the city or the utility company's construction or maintenance activities on the property.

13-606. **INGRESS AND EGRESS** all fences shall have a minimum of one gate for emergency ingress and egress. The minimum width of such gate shall be three (3) feet. A driveway approach, approved by the Zoning Administrator shall be required for all vehicle gates.

13-607. **MATERIALS.**

(a) **Permitted Materials:** Materials permitted are wood, metal tubing or wrought iron, stone, masonry and chain link. Vinyl or fiberglass composite materials may by utilized if the material is listed, designed and constructed for fencing materials. Metal posts may be allowed on wood fences.

(b) **Prohibited Materials:** No person shall use rope, string, wire products including, but not limited to chicken wire, hog wire, wire fabric, barbed wire, razor ribbon, wire and similar welded or woven wire fabrics, chain netting, cut or broken glass, paper, metal panels, corrugated, metal panels, galvanized sheet metal, plywood, fiberglass panels or plastic panels in any fence or any other material that are not manufactured specifically as fencing materials, the zoning administrator may require the applicant to provide the manufacturer's standards to establish the intended us of the proposed fencing material. No person shall construct a fence of wood, metal or plastic products that are designed specifically for uses other than fence construction. No person shall construct a fence of used, damaged or unsafe materials. No person shall weave or use slats of any material, including but not limited to metal, fiberglass, or bamboo, through a chain link fence to create a blind fence. Used materials, equipment and devices shall not be reused unless it can be determined by the zoning administrator that they meet the requirements of the building code for new materials.

13-608. **EXCEPTIONS.** Any fence greater that 6 ½ feet in height erected on public or parochial school grounds and commercial properties may utilize barbed wire so long as the barbed wire portion of the fence does not exceed a maximum height of two feet vertically above the main portion of the fence and the overall fence is no higher than ten(10) feet.

13-609 **INSPECTIONS.** Upon completion of work authorized under this code it shall be the duty of the applicant to notify the zoning administrator that such work is ready for inspection. Required inspections shall include:

(a) **Alignment inspection .** To be made after all posts or support structures are in place.

(b) **Final inspection.** To be made after the fence has been completed.

13-610. **MANTENANCE.** All fences, both existing and new, and all parts thereof, shall be maintained in a condition of reasonable repair and not be allowed to become or remain in a condition of disrepair including noticeable leaning or missing sections, broken supports, non-uniform height and growing or noxious vegetation. All fences shall be maintained in a safe and aesthetically pleasing condition. Graffiti shall be removed immediately upon notification, and all vegetation adjacent thereto shall be maintained in a good condition or appropriately trimmed. All gates and latching devices shall be maintained in an operable condition. The owner or his/her designee shall be responsible for the maintenance of the fence in accordance with the existing code. The zoning administrator may cause any fence to be re-inspected. (Ordinance 1054, 2011)

CHAPTER XIV. TRAFFIC

Article 1. Standard Traffic Ordinance
Article 2. Local Traffic Regulations
Article 3. Operation of Micro-Utility Truck
Article 4. All-Terrain Vehicles
Article 5. Golf Carts
Article 6. Abandoned Motor Vehicles on Public Property
Article 7. Hazardous Materials

ARTICLE 1. STANDARD TRAFFIC ORDINANCE

14-101. **INCORPORATING STANDARD TRAFFIC ORDINANCE.** There is hereby incorporated by reference for the purpose of regulating traffic within the corporate limits of the City of Alta Vista, Kansas, that certain standard traffic ordinance known as the "Standard Traffic Ordinance for Kansas Cities," Edition 2008, 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 Alta Vista, 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 2001)

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

(a) An ordinance traffic infraction is a violation of any section of this article 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 2001)

14-103. **PENALTY FOR SCHEDULED FINES.** The fine for violation of an ordinance traffic infraction or any other traffic offense for which the municipal judge establishes a fine in a fine schedule shall not be less than $10 nor more than $30. Except for speeding which shall not be less than $10 nor more than $ 500. A person tried and convicted 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 $1,000. (Code 2001)

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 law. 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 Alta Vista 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 2001)

14-202. **CARELESS DRIVING.** No person shall operate or halt any vehicle within the city limits in such a manner as to indicate a careless, heedless, or inattentive disregard for the right or the safety of others, or in such a manner as to endanger, or to be likely to endanger, any person or property. Any person convicted of violating the provisions of this section of this article shall be subject to penalties provided in Section 201 of the Standard Traffic Ordinance now in effect. (Code 2001)

14-203. **MAIN TRAFFICWAY.** Pursuant to K.S.A. 12-685 the following described portion of the following described streets in the city is hereby designated and established as a main traffic-way, to-wit:

(a) Center Street, from the east line of Main Street to the East corporate limits of the city.

(b) All of Park Street.

(c) Logan Street, from Spruce Street south to the south corporate limits of the city. (Code 2001)

14-204. **SPEED ZONE ESTABLISHED; STOP INTERSECTIONS.**

(a) Center Street in the city from Main Street to the east end thereof is hereby recognized as a major thoroughfare in the city, and the maximum speed limit for vehicles traveling the same is hereby established at 20 miles per hours (M.P.H.) Signs designating such reduced speed shall be placed at or near each street intersection along the portion of the street which lies within a residential district.

(b) The intersections of all streets running north and south and intersecting Center Street in the city, between Main Street and the east terminating point of Center Street, are hereby designated as stop intersections for North and South traffic, and appropriate signs shall be erected at such intersections. At such intersections all vehicles must stop before entering upon Center Street. (Code 2001)

(c) Main Street – From HWY K 4 North to the intersection of Elm street the maximum speed limit for vehicles traveling the same is hereby established at 45 (M.P.H.). Signs designating such speed shall be placed on said portion of Main Street.

(d) Elm Street North to the intersection of Sea Street the maximum speed limit for vehicles traveling the same is hereby established at 30 (M.P.H.). Signs designating such speed shall be placed on said portion of Main Street, which lies within a residential district.

(e) Sea Street North to the intersection of Anderson Street designated as the main business district the maximum speed limit shall be 20 (M.P.H.). Signs designating such speed shall be placed on said portion of Main Street.

(f) Anderson Street north to the intersection of Spruce Street the maximum speed shall be 30 (M.P.H.). Signs designating such speed shall be placed on said portion of Main Street, which lies within a residential district. (Ord. 993; 2002)

14-205. **TRAFFIC EMERGENCY**

(1) **EMERGENCY SNOW ROUTE.** Whenever snow of four (4) inches or more has accumulated on the streets of Alta Vista, Kansas a traffic emergency exists thereby establishing emergency snow routes.

(a) South from K Hey 4 to the North end of Main Street and West from North Munkers Creek Road to the West end of Center will be the designated Emergency Snow routes within the city limits of the City of Alta Vista. All vehicles should be removed from said Emergency Snow Route so that snow can be bladed and removed.

(2) **DEFINITIONS:**

(a) **Snow Tire**. When compared with conventional rib type tires, has a relatively aggressive tread pattern and is designed primarily to provide additional starting, stopping and driving traction in snow, and shall have a tread depth of at least four-thirty-seconds inch. The tread has ribs, lugs, blocks or buttons; is generally discontinuous, and had the following characteristics when inflated:

(1) A substantial portion of the lug, block or rib edges in the tread design are at an angle greater than thirty (30) degrees to the tire circumferential center line.

(2) On at least one side of the tread design, the shoulder lugs protrude at least one-half inch in a direction generally perpendicular to the direction of travel.

(3) Tires as defined above, and manufactured after January 1, 1976 will be permanently labeled on one sidewall with the words "MUD and SNOW" or any contraction using the letters "M" or "S".

(b) **Tire chain**. A device which, when attached to the tires provided additional starting, stopping and driving traction in snow. (Ord 1026; July 2007)

14-206. PARKING **AND DRIVING RESTRICTIONS.**

(a) No vehicle shall be parked on any emergency snow route during a period of traffic emergency as provided in this article.

(b) No person shall operate a motor vehicle on any emergency snow route hereinafter established in such a manner or condition that such vehicle will become stalled by reason of the fact that the driving wheels of such vehicle are not equipped with tire chains or snow tires. (Ord. 1026: July 2007)

14-207. **NOTIFICATION.** A city representative shall cause appropriate signs to be installed along emergency snow routes designating it as an emergency snow route. (Ord. 1026; July 2007

14-208. VIOLATIONS**:** Any person found to be in violation of this ordinance is guilty of an ordinance violation, and upon conviction shall be punished by a fine not to exceed $50 dollars ($50). (Ord. 1026; July 2007)

14-209. PARKING **RESTRICTED.** It shall be unlawful for any person to park on any part of Park Street or Logan Street in the city, any truck, truck tractor, trailer, semi-trailer, travel trailer or pole trailer, which is registered and licensed for a gross weight of over 24,000 pounds, or has a manufactured gross weight rating (vehicle and load) of more than 24,000 pounds. (Code 2001)

ARTICLE 3. OPERATION OF MICRO-UTILITY TRUCK

14-301. **DEFINITION: MIRCO-UTILITY TRUCK.**

Micro-Utility Truck- means any motor vehicle which is not less than 48 inches in width, has an overall length, including the bumper, of not more than 144 inches, has an unladen weight, including fuel and fluids, of more than 1,500 pounds, can exceed 40 miles per hour as originally manufactured and is manufactured with a metal cab. "Micro utility truck" does not include a work site utility vehicle. (Ord 1038; Nov 2008)

14-302 **OPERATION OF MICRO-UTILITY TRUCKS; PENALTY.**

(a) Micro-Utility Trucks, as defined above, may be operated upon the public highways, street, roads and alleys within the corporate limits of the city, subject to the provision of the code.

(b) No micro-utility truck 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 K. S.A. Annotated. Such requirements include, but are not limited to, requirements for headlights, brake lights, turn signals, horns, mufflers, mirrors, reflectors and seat belts.

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

(d) No person shall operate a micro-utility truck on any public highway, street, road or alley within the corporate limits of the city unless such vehicle is equipped with a factory exhaust system or an exhaust system meeting all manufacturer's specifications. (Ord. 1038; Nov. 2008

14-303. **INSURANCE.** All insurance requirements for motor vehicles which are set forth in K.S.A. Annotated Article 31 of Chapter 40 shall apply to micro-utility trucks driven on any public highway, street, road or alley within the corporate limits of the city. (Ord. 1038; Nov. 2008)

14-304. **PENALTY.** A violation of this section shall be deemed a 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 102. 2008 Standard Traffic Ordinance and amendments thereto, or such other similar provision as the city may then have in effect. (Ord. 1038; Nov. 2008

14-305. **SAME: VALID DRIVER'S LICENSE REQUIRED; PENALTY.** No person Shall operate a micro-utility truck on any public highway, street, road, or alley within the corporate limits of the city unless such person has a valid driver's license. Violation of this section is punishable by a fine of not more than $1,000 or by imprisonment for not more than six months or by both such fine and imprisonment. (Ord. 1038; Nov. 2008)

ARTICLE 4. ALL-TERRAIN VEHICLES

14-401. **DEFINATION:**

"**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 article "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 10 pounds per square inch or less as recommended by the vehicle manufacturer. (Ord. 1038; Nov. 2008)

14-402. **OPERATION OF ALL-TERRAIN VEHICLE. A**ll-terrain vehicles, as defined above, may be operated upon the public highways, streets, roads and alleys within the corporate limits of the City, subject to the provision of this code.

(a) The vehicle shall comply with the equipment requirements under the provision of K.S.A. Article 17, Chapter 8. Such requirements include, but are not limited to, headlights, brake lights, turn signals, horns, mufflers, mirrors and reflectors, if it was Standard Equipment.

(b) Every person operating an all-terrain vehicle on the public highway 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.

(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) 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 a all-terrain vehicle, unless such all-terrain vehicle is designed to carry more than one (1) person, in which event a passenger may ride upon the permanent and regular seat if designed for two (2) persons, or upon another seat firmly attached to the all-terrain vehicle at the rear or side of the operator.

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

(f) 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. (Ord. 1038; Nov. 2008)

14-403. **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. The previous sentence shall not apply however, when two (2) all-terrain vehicles are operated two (2) 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 the lanes of traffic or between adjacent lines or rows of vehicles.

(d) All-terrain vehicles shall not be operated more than two (2) abreast in a single lane.

(e) Subsection (b) and (c) shall not apply to law enforcement officers in the performance of their official duties. (Ord. 1038; Nov. 2008)

14-404. **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. 1038; Nov 2008)

14-405.**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. 1038; Nov. 2008)

14-406. **OPERATION OF ALL-TERRAIN VEHICLES.** 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. (Ord. 1038; Nov. 2008)

14-407. **SAME; PENALTIES.** A violation of this section shall be deemed a 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 102. 2008 Standard Traffic Ordinance and amendments thereto, or such other similar provision as the city may then have in effect. (Ord. 1038; Nov 2008)

14-408. **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 that $1,000 or by imprisonment for not more than six months or by both such fine and imprisonment. (Ord. 1038; Nov. 2008)

ARTICLE 5. GOLF CARTS

14-501. **OPERATION OF GOLF CARTS**. (a) Golf carts may be operated upon the public highways, streets, roads and alleys within the corporate limits of the city; provided, however, that no golf cart may be operated upon any public highway, street, road and alley with a posted speed limit in excess of 30 miles per hour. No golf cart shall be operated on any interstate highway, federal highway or state

highway; provided, however, that the provisions of this subsection shall not prohibit a golf cart from crossing a federal or state highway with a posted speed limit greater than 30 miles per hour.

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

(c) Every person operating a golf cart on a public highway, street, road and alley of the city shall be subject to all of the duties applicable to a driver of a vehicle imposed by law.

14-502. **SAME: VALID DRIVER'S LICENSE REQUIRED; PENALTY**. No person shall operate a golf cart on any public highway, street, road or alley within the corporate limits of the city unless such person has a valid driver's license. Violation of this section is punishable by a fine of not more than $1,000 or by imprisonment for not more than six months or by both such fine and imprisonment.

14-503. **SAME; DEFINITION**: "Golf cart" means a motor vehicle that has not less than three wheels in contact with the ground, an unladen weight of not more than 1,800 pounds, is designed to be operated at not more than 25 miles per hour and is designed to carry not more than four persons, including the driver.

14-504. **SAME; PENALTY**. Unless specifically provided herein, a violation of this section shall be deemed an ordinance traffic infraction. Upon an entry of a plea or guilty or no contest or upon being convicted of such violation, the penalty imposed shall be in accordance with Section 201, 2008 Standard Traffic Ordinance, and amendments thereto, or such other similar provision as the city may then have in effect.

14-505. **SAME; INSURANCE REQUIREMENT; PENALTY**: (a) Every owner of a golf cart shall provide liability coverage in accordance with Section 200 of the 2008 Standard Traffic Ordinance, and amendments thereto, and the Kansas Automobile Injury Reparations Act, K.S.A. 40-3101, *et seq.,* and amendments thereto.

(b) All provisions of Section 200 of the 2008 Standard Traffic Ordinance, and amendments thereto, including penalty provisions, shall be applicable to all owners and operators of golf carts.

ARTICLE 6. ABANDONED MOTOR VEHICLES ON PUBLIC PROPERTY

14-601. **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 2001)

14-602. **IMPOUNDING VEHICLES.** The law enforcement officer 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 trail.

(e) Any motor vehicle, the continued presence of which, because other 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 law enforcement officer 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 real property at the request of the law enforcement officer shall have a possessory lien on such vehicle for the cost incurred in moving, towing and storing such vehicle. For purposes of this article, common area shall be construed not to mean public property or property open to the public. (Code 2001)

14-603. **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 2001)

14-604. **NOTICE OF IMPOUNDMENT; STORAGE OF VEHICLE.**

(a) **When Owner Present**. When the law enforcement officer intends to impound a motor vehicle pursuant to section 14-602 and the owner of the motor vehicle is then present, the law enforcement officer shall before the motor vehicle is removed, provided 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 the 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 acknowledgement 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**. When the law enforcement officer 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 law enforcement officer 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 lien holder, 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 law enforcement officer containing the same information as required by section 14-304(a). The law enforcement officer 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 lien holders 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 law enforcement officer 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 2001)

14-605. **IMPOUNDMENT AFTER REQUEST TO LEAVE M OTOR 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 14-602, the law enforcement officer 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 law enforcement officer pursuant to section 14-604. The law enforcement officer 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 law enforcement office 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 2001)

14-606. **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 law enforcement officer nor the custodian of the storage space may require payment of any towing or storage charges as a condition precedent to such release. At the same time as the owner or his or her agent requests release of the impounded motor vehicle, and if such request is made within 40 days after the owner receives a copy of the notice of impoundment, the law enforcement officer 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 forty 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 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 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 2001)

14-607. **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 14-606, 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) The amount of the towing and storage charges and

(c) His or her liability for the payment thereof.

If the owner or his or her agent requested the hearing more than five days but not more than 40 days after the owner received a copy of the notice of impoundment, the owner, his or her agent or his or her attorney shall be required at the hearing, as a condition precedent to the presentation of any objections by the owner, to show good cause for the delay in making the request more than five days after the owner received a copy of the notice of impoundment: if good cause cannot be shown, the hearing officer shall dismiss the hearing and make the finding stated in subsection (b) below; otherwise, the hearing examiner shall proceed to hear the owner's objections. At the conclusion of the hearing on the owner's objections, the hearing examiner shall render his or her decision if the hearing examiner:

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

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

(2) Determine whether and to what extent the city will be charged for towing and storage expenses; 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 2001)

14-608. **CHARGES CONSTITUTE A LIEN.** The towing and storage charges occasioned by the impoundment of a motor vehicle pursuant to section 14-602 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 14-607 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 14-606 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 sections 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 14-606(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 14-606(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 2001)

14-609. **SATISFACTION OF LIEN; NOTICE OF PUBLIC SALE.** The holder of a lien against a motor vehicle created by section 14-608, to the extent that such lien has not been discharged as provided in section 14-608 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 law enforcement officer. 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 14-606(b), the lien shall first be satisfied out of the security so provided and, if any portion of the lien remains unsatisfied and undischarged, may then be enforced in any manner provided by law. If the motor vehicle against which the lien is created pursuant to section 14-608 is still under impoundment 60 days from the date it is impounded by the law enforcement officer 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 2001)

14-610. **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 14-609 may claim and take possession thereof, upon payment of accrued charges and estimated costs of publication of the notice of sale to the law enforcement officer and the deposit with the law enforcement officer 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 law enforcement officer shall, within three days, make a report to the city clerk and deliver the charges and costs so paid to the city clerk, taking a receipt therefore and filing it, together with a duplicate copy of the report to the city clerk, 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 of the sale of the motor vehicle, the law enforcement officer shall notify the lien holder or retained titleholder of the time and the place for the sale, and the lien holder or retained titleholder shall deliver such motor vehicle to the law enforcement officer 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 lien holder or retained titleholder. If the lien holder or retained titleholder is the successful bidder for the motor vehicle, the law enforcement officer shall report this fact to the city clerk and then the funds previously paid by the lien holder or retained titleholder shall be relieved by the trust previously impressed and become the same as other funds received by the city for storage and cost of impounded motor vehicles. If the motor vehicle is sold for a higher bid to any person other then the lien holder or retained titleholder, the law enforcement officer shall report this fact to the city clerk and the lien holder or retained titleholder shall be refunded the amount previously paid by him or her 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 law enforcement officer shall immediately notify the lien holder or retained titleholder in possession of the motor vehicle and he or she shall return the same to the law enforcement officer within 12 hours. The law enforcement officer shall report this redemption by the rightful owner to the city clerk and the lien holder or retained titleholder shall be refunded the amount previously paid by him or her out of the trust account. (Code 2001)

14-611. **SALE PROCEEDS.** The proceeds of a public sale held pursuant to section 14-608 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 2001)

14-612. **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 2001)

14-613. **IMPLEMENTION OF ARTICLE.** The law enforcement officer and city clerk are authorized to make rules for the implementation and administration of this article. (Code 2001)

14-614. **REIMBURSEMENT FOR DISCHARGED LIENS.** If a lien created by section 14-608 and held by a private wrecker or towing firm is discharged by section 14-608 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 2001)

ARTICLE 7. HAZARDOUS MATERIALS

14-701. **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 2001)

14-702. **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 with in the city limits. (Code 2001)

14-703. SAME**; TRANSPORTATION.** Except as provided in section 14-704 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 2001)

14-704. **HAZARDOUS MATERIAL ROUTES.** The provision of section 14-703 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 upon the following streets, avenues, highways or roadways.

(a) (Reserved)
(b) (Reserved)
(c) (Reserved)

(Code 2001)

14-705. **PARKING OF VEHICLES OR TRAILERS CARRYING HAZARDOUS MATERIALS.**

(a) Except as provided in subsections (b) and (c), it shall be unlawful for any Person, firm, corporation or other entity to park any vehicle, trailer, or semi-trailer carrying any hazardous material within any of the following city zoning districts as defined in Chapter 16 of this code:

(1) (Reserved)

(b) Subsection (a) shall not apply to vehicles, trailers or semi-trailers parked for continuous periods of time not to exceed one hour where such vehicles, trailers or semi-trailers are parked along those routes specified in section 14-704 of this code.

(c) Subsection (a) shall not apply to any vehicle, trailer or semi-trailer carrying any hazardous material where such vehicle, trailer or semi-trailer is not parked within 500 feet of any structure used for human habitation. (Code 2001)

14-706. **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 fire chief or any law enforcement officer may require the owner, operator or lessee of the trailer to move it within two hours. If such removal is not accomplished on the order of any such officer, it may be accomplished by any such officer, by any reasonable means, if the continued presence of the trailer or semi-trailer at its parked location constitutes, adds to or prevents correction of a situation threatening imminent injury or damage to persons or property. (Code 2001)

CHAPTER XV. UTILITIES

Article 1. Utility Department
Article 2. Water
Article 3. Sewers
Article 4. Solid Waste
Article 5. Water Conservation

ARTICLE 1. UTILITY DEPARTMENT

15-101. **UTILITY DEPARTMENT.** The water, sewer and solid waste disposal utilities Shall be one utility and shall be operated and administered as such in a utility department. (Code 2001)

15-102. **SUPERINTENDENT OF UTILITIES.** The utility department shall be Administered by a superintendent of utilities. The superintendent of utilities shall be appointed by the mayor with consent of the council, and may be removed by vote of majority of the members of the council or, for good cause, may be removed by the mayor with consent of the council. The superintendent shall be responsible for the general operation, repair, extension and maintenance of all combined utilities under the utility department and his or her salary shall be determined by action of the governing body of the city. (Code 2001)

15-103. **UTILITY DEPARTMENT FUNDS**. A separate utility department fund shall Be maintained. All current operating funds of each utility shall be transferred to such fund. All revenues of each utility shall be paid into the utility department fund, and to the extent allowed by law, the assets and revenues of each combined utility shall be used to pay obligations now outstanding and hereafter incurred for construction, reconstruction, maintenance and administration of each combined utility under the utility department, including long term debt service obligations of each combined utility. (Code 2001)

15-104. **BILLING; PENALTIES.**

a. All charges for utility usage water, sewer and residential solid waste shall be due by the 10th of the month following the month of usage billed and a 10% penalty shall be due if the charges are not paid by the 10th of the month. If services are discontinued due to nonpayment of usage charges, a disconnect charge, and a reconnect charge set by ordinance shall be paid to the city clerk before the service is restored. All unpaid charges, penalties and interest, must be paid before service will be continued. All utility use charges and fees shall be set by ordinance and duly published in the official city paper. (Code 2011)

b. The governing body may elect to assess such delinquent charges as a lien upon the property of the homeowner. 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 2001)

15-105 UTILITIES **FURNISHED AT OWNER'S REQUEST**. If utilities are furnished to leased/rental premises on the application and request by the owner of the premises, or the owner's agent, then all hook-up fees shall be payable by the owner. All billings for utilities furnished to such leased premises shall be made directly to the owner, or to the owner's agent, and the owner shall be fully liable for the cost of all utilities furnished. (Code 2001)

15-106. CONTINUATION **OF SERVICES TO LEASED PREMISES.** When leased premises served by utilities furnished by the city are vacated by the lessee such utility service shall be immediately disconnected unless a new lessee, or the owner of the premises, pays to the city the regular utility fee for leased premises between the time they are vacated by one lessee and occupied by another. (Code 2001)

15-107**. DISCONTINUANCE OF SERVICE FOR DELINQUENCY IN PAYMENT; NOTICE OF HEARING.**

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 shall be terminated as provided in section 15-104. Before any utility service or other service furnished by the city may be discontinued for delinquency in payment, the customer must be notified in writing and be afforded the right to be heard. The procedure to be followed is set out in the remainder of this section.

(a) A delinquency and termination notice shall be issued by the city clerk within three days after the delinquency occurs and delivered to the customer (and a copy also delivered to the occupant of the premises served if the occupant is not the customer) by First Class U.S. Mail, personal service or door hanger, or any combination thereof, at the last known address as shown on the records of the city. The customer and occupants shall be responsible for advising the city clerk of current address. The notice shall indicate:

(1) The amount due, plus interest:

(2) The type of service and the date on which service will be terminated if the amount due is not paid (to be not earlier than seven days from the date of notice):

(3) The customer's right to a hearing before an officer designated by the city, designating the officer and the place of such hearing, if requested; and,

(4) That such hearing must be requested in writing, filed with the city Clerk at least two working days, (Saturday, Sundays, and holidays excluded) before the date of termination. Delivery may be accomplished by ordinary mail, postage prepaid, personal delivery to the customer, or delivered to the premises served and left with an occupant thereof or attached to a conspicuous portion of the premises. Upon receipt of a request for such hearing the city clerk shall immediately advise the applicant customer of the date and time of the hearing.

(b) The applicant customer, and the city, may present such evidence as is pertinent to the issue, may be represented by council, may examine and cross-examine witness, but formal rules of evidence shall not be followed. (Code 2001)

15-108. DISCONTINUANCE **OF SERVICE FOR DELINQUENCY IN PAYMENT; FINDINGS; HEARING OFFICER**.

(a) If the officer before whom the hearing is held shall find, for some legal reason, that service should not be terminated, he or she shall so order and advise the superintendent of utilities. If the officer finds service should be terminated, he or she shall so order and advise the superintendent of utilities. If the officer finds service should be terminated, he or she shall so order and service shall be terminated three days from the date of the order. The customer shall be notified by posting notice on the premises served by mail, unless such order is made at the hearing in the presence of the customer. An extension of the termination date of up to 10 days from the order may be granted by the hearing officer for good cause shown.

(b) Hearings may be conducted by any of the following officers: The city clerk, the councilmember in charge of the particular utility service to be terminated, or such other hearing officer as may be appointed by the mayor and confirmed by the council. (Code 2001)

15-109. **PENALTIES**. Any person who shall violate any of the provision of this Article shall, upon conviction, be punished by a fine of not less than $10 nor more than $100. Each day of failure to comply with such provision of this article shall constitute a separate offence. (Code 2001)

ARTICLE 2. WATER

15-201. **SUPERINTENDENT OF UTILITIES**. The superintendent of utilities shall Have supervision and control of all other officers and employees of such waterworks which the governing body may provide. He or she shall be responsible for the inspection of all plumbing installations in the city and make recommendations to the city council for the improvement or enlargement of the waterworks. The superintendent shall make and keep up to date a map showing the location of the water mains, gate valves, and fire hydrants of the city and file a copy of the same in the office of the city clerk and shall make such reports and perform such other duties as the city council may direct. (Code 2001)

15-202. **APPLICATION FOR SERVICE**. Any person, firm or corporation desiring a connection with the municipal water system of this city shall apply in writing to the city clerk, on a form furnished by the clerk for such purpose, for a permit to make such connection. Such application shall contain an exact description of the property to be served and the uses to which such water is to be put. (K.S.A. 12-818; Code 2001)

15-203. **CITY CLERK TO ISSUE PERMIT; FEES.** The city clerk shall, upon receipt of an application for service, and a non-returnable service fee set by ordinance, issue a permit to the applicant for connection of the property described in the application to the municipal water system, provided there is an existing meter loop at the property. If there is no existing meter loop at the premises to be served, the applicant shall additionally pay to the city clerk the actual cost of all labor and materials for the installation of the meter well, meter loop, meter, tapping saddle, corporation cock, including all piping and other appurtenances, excavation and back

fill, including repair to street sub grade and surface where excavation is necessary in a street. Actual cost shall be based on cost to the city of materials, supplies and equipment installed, and at the reasonable hourly rate for labor and use of equipment as may be established by the governing body of the city from time to time. Before installation is begun the applicant may be required to pay a deposit to the city clerk for such installation, based on an estimate of cost determined by the city clerk upon consultation with the city superintendent, recognizing and hereby determining that such cost may vary at each installation point. If the actual cost of such installation exceeds such deposit the applicant must forthwith pay the balance due to be entitled to water use, and if the actual cost is less than the deposit the surplus shall forthwith be returned to the applicant. (Code 2001)

15-204. **METER; REGULATIONS.** All water furnished by the municipal water plant shall be measured by meters furnished, installed and maintained by the city for that purpose. Every customer shall provide a suitable place for the installation of the meter. For the purpose of reading meters, duly authorized employees of the water department of this city may legally enter any premises at a reasonable hour. If any meter shall be found to vary in excess of two percent from 100 percent accuracy, the reading of the meter shall be corrected beyond the date of the last regular monthly reading. Where service is rendered a customer through a defective meter, the charge for such service shall be based upon the estimated consumption. No allowance shall be made for water used, lost or wasted after the water has passed through the meter. Every customer shall have the right to appeal to the city council from any meter reading or water bill and the council may order an adjustment in accordance with the facts of each case. (K.S.A. 12-818; Code 2001)

15-205. **CITY TO MAKE CONNECTIONS.** The city shall install all main line taps, make excavations, install all meter loops, meter, corporation cock, piping and other appurtenances from the main pipeline of the city to the point of installation of the meter on the premises to be served (which shall, unless impracticable, be made near the property line of the served premises nearest such main). Ultimate decision concerning the location of such meter installation, and other facilities, shall be determined by the city superintendent. If it is necessary to extend the city main pipeline to reach a point of practicable service to the premises, the city shall provide without cost to the applicant the first 75 feet of such main extension, and the applicant shall pay the cost of such extension in excess of 75 feet. The cost of all the facilities provided for in this section, including main line extensions in excess of 75 feet (as above provided) shall be paid by the applicant as provided in section 12-203 as hereinbefore amended. (Code 2001)

15-206. **SEPARATE CONNECTIONS.** Unless special permission is granted by the superintendent of utilities, each premise shall have a separate and distinct service connection. Where permission is granted for branch service pipes, each branch pipe shall have its own curb cock and separate meter. (K.S.A. 12-818; Code 2001)

15-207. **MULTIPLE DWELLING UNITS; HOTELS; TOURIST CAMPS**.

(a) Any premises occupied as a duplex, apartment house or other multiple dwelling unit, or occupied in conjunction with a commercial building or other building and which receives water service from a single service pipe, shall pay the minimum water bill as for a domestic customer for each separate unit, unless provisions are otherwise made by contract for such service.

(b) Hotels, motels, and tourist camps may receive water service through a single installation and shall pay such water rates as may be provided for commercial users.

(c) Separate water meters may be installed at the option of the city upon the request of the owner of each apartment or other domestic service units. (Code 2001)

15-208 **USE, DISTRIBUTION AND INVESTMENT OF REVENUES.** The revenue derived from the sale of water shall be used only for the purpose of operating renewing and extending the plant or distribution system, the payment of interest on outstanding bonds issued for the construction or extension thereof, and payment of the employee's salaries. At any time that there may be a surplus of such funds, it shall, if needed to redeem bonds, be placed quarterly in a sinking fund which shall only be used for the purpose of redeeming bonds that may have been issued for renewing or extending the plant or distribution system or making renewals or extensions thereto. When any surplus of either the operating fund or sinking fund is not needed for any of the above stated purposes, the surpluses:

(a) May be transferred and merged into the city general revenue fund or any other funds of the city.

(b) May be set aside in whole or part, in a depreciation reserve and used as provided by statute. (K.S.A. 10-1204;K.S.A. 12-825d; Code 2001)

15-209. **CURB AND STOP AND WASTE COCKS REQUIRED.** There shall be a curb cock in every service line attached to the mains, the same to be placed in such place as shall be designated by the superintendent of utilities, Curb cocks shall be supplied with strong and suitable "T" handles and shall be enclosed in a substantial tile case covered with a tight fitting iron lid. There shall be one or more stop and waste cocks attached to every supply pipe at some point between the curb cock and the meter so that the water can be shut off and the meter and house plumbing entirely drained. (K.S.A. 12-818; Code 2001)

15-210. **COST OF INSTALLATION BORNE BY CUSTOMER.** The cost of original installation of all plumbing between the property line and any service device maintained by the owner of the premises and all extensions hereafter made to such service pipes, as well as all repairs to the same shall be borne entirely by the owner of the premises. Such service pipes and devices shall at all reasonable times be subject to inspection by duly authorized officials of the water department of the city. Repairs found to be necessary by such officials shall be made promptly or the city shall discontinue service until such repairs are made. (K.S.A. 12-808; Code 2001)

15-211. **USE OF WATER DURING FIRE PROHIBITED**. It shall be unlawful for any person to use or allow to be used, during a fire, any water from the municipal water system, except for the purpose of extinguishing the fire, and upon the sounding of a fire alarm, it shall be the duty of every person to see that all water services are tightly closed and no water is used except in extraordinary cases of emergency during the fire/ (K.S.A. 12-818; Code 2001)

15-212. **TAKING WATER WITHOUT AUTHORITY PROHIBITED**. It shall be unlawful for any person, firm or corporation to take any water from the municipal water plant except for the same be drawn through a meter installed by the city or from any premises not owned by him, or her or them without the permission of the owner thereof. (K.S.A. 12-818; Code 2001)

15-213. **TAMPERING WITH CUT-OFF VALVES PROHIBITED.** It shall be unlawful for any person other than a duly authorized employee of the city water department to turn any curb cock on or off. (K.S.A. 12-818; Code 2001)

15-214. **CITY RESERVES THE RIGHT TO DISCONTINUE WATER SERVICE**. The city hereby reserves the right to discontinue service to any and all customers of the municipal water system without notice when the same is necessary in the repair of the system, or any part thereof. (K.S.A. 12-818; Code 2001)

15-215. **PLUMBING INSPECTIONS; AUTHORITY.** The superintendent of utilities or his or her designated agent, shall inspect the plumbing in every building or premises in the city as frequently as in his or her judgment may be necessary to ensure that such plumbing has been installed in such a manner as to prevent the possibility of pollution of the water supply of the city by the plumbing. The superintendent shall notify or cause to be notified in writing the owner or authorized agent of the owner of any such building or premises, to correct, within a reasonable time set by the superintendent, any plumbing installed or existing contrary to or in violation of this article, and which in his or her judgment, may, therefore, permit the pollution of the city water supply, or otherwise adversely affect the public health, (K.S.A. 12-818; Code 2001)

15-216. **PLUMBING INSPECTIONS; RESTRICTIONS**. The superintendent, or his or her designated agent, shall have the right of entry into any building, during reasonable hours, for the purpose of making inspection of the plumbing systems installed in such building or premises provided that with respect to the inspection of any single family dwelling, consent to such inspection shall first be obtained from a person of suitable age and discretion therein or in control thereof. (K.S.A. 12-818; Code 2001)

15-217. **CROSS CONNECTIONS WITH CITY WATER SYSTEM PROHIBITED**. Cross connections between the city water system and other systems or equipment containing water or substances of unknown or questionable content are prohibited, except where specifically authorized by the superintendent of utilities. Even when authorized, suitable protective devices must be installed, tested and maintained to ensure the purity of the city water supply. (K.S.A. 12-818; Code 2001)

15-218. **PROTECTION AGAINST BACKFLOW.** No device, appliance, mechanism or system which can siphon into or create back-pressure into the city's potable water supply system shall be connected to the city's system without the approval of the superintendent who shall ensure that the proper protective measures have been taken. (K.S.A. 12-818; Code 2001)

15-219. **TECHNICAL STANDARDS FOR PROTECTIVE MEASURERS AND DEVICES.** In evaluating protective devices and measurers, the superintendent of utilities shall be guided by and comply with all Ordinances and Amendments. The definitions, requirements, standards, and specifications set forth in that ordinance are adopted by reference. Copies shall be marked and available as required by K.S.A. 12-3010. (K.S.A. 12-818; 3009, 3010; Ord 851; Code 2001)

15-220. **VIOLATIONS AND NOTIFICATION; TERMINATION OF SERVICE**. The superintendent of utilities shall notify the owner or agent of the owner of the building or premises where a violation of this article is found to exist. The superintendent shall set a reasonable time in which the owner shall have the violation removed or corrected. Upon failure of the owner to have the defect corrected by the end of the specified time interval, the superintendent may, if in his or her judgment an imminent health hazard exists, cause the water service to the building or premises to be terminated, and/or recommend such additional fines or penalties to be invoked as herein as may be provided. (K.S.A. 12-818; Code 2001)

15-221 **Penalties.** Any person, firm or corporation who knowingly permits a violation to remain uncorrected after the expiration of time set by the superintendent shall, upon conviction thereof by the court, be required to pay a fine of not more than $100 for each violation. Each day of failure to comply with the requirements of this article, after the specified time set by the superintendent, shall constitute a separate violation. (K.S. A. 12-818; Code 2001)

ARTICLE 3. SEWERS

15-301 **DEFINITIONS.** Unless the context clearly indicates otherwise, the meaning of words and terms used in this article shall be as follows:

(a) **Building Drain** shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning 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 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 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) **Operation and Maintenance** shall mean all expenditures during the useful life of the treatment works for materials, labor, utilities, and other items which are necessary for managing and maintaining the treatment works to achieve the capacity and performance for which such works were designed and constructed.

(m) **Combined Sewers** shall mean sewers receiving both surface runoff and sewage, surface and ground waters are not intentionally admitted.

(n) **Replacement** shall mean expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed. The term "Operation and Maintenance" includes replacement.

(o) **Sanitary Sewer** shall mean a sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

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

(q) **Sewage Treatment Plant** shall mean any arrangements of devices and structures used for treating sewage.

(r) **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.

(s) **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.

(t) **User Charge** means that portion of the total wastewater service charge which is levied in a proportional and adequate manner for the cost of operation, maintenance, and replacement of the wastewater treatment works.

(u) **Wastewater** means sewage, the combinations 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.

(v) **Normal Domestic 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 250 milligrams or less;

(3) Hydrogen ion concentration of 5.0 to 9.0. (Code 2001)

(w) **Shall** is mandatory;
May is permissive.

(x) **Water Meter** shall mean a water volume measuring and recording device, furnished and/or installed by the City of Alta Vista or furnished and/or installed by a user and approved by the City of Alta Vista.

(y) **Useful Life** shall mean the estimated period during which a treatment works will be operated.

(z) **Treatment Works** shall mean any devices and systems for the storage, treatment, recycling, and reclamation of municipal sewage, domestic sewage, or liquid industrial wastes. These include intercepting sewers, outfall sewers, sewage collection systems, individual systems, pumping, power, and other equipment and their appurtenances; extensions improvement, remodeling, additions and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment, or any other method or system for preventing, abating, reducing, storing, treating, separating or disposing of municipal water or industrial waste, including waste in combined storm water and sanitary sewer systems.

15-302. **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 public sewer in accordance with the provision of this article, within 90 days after the date of official notice to do so.

15-303. **PERMIT, CONNECTION FEE.** No person shall uncover, make any connection with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the city. (Code 2001)

15-303A. **SEWER CONNECTIONS OUTSIDE THE CITY**. Connection with the mains or laterals of the sewer system, direct or indirect, may be provided to property owners outside the city limits. Charges for such connection shall be on the basis of a cash payment equal to the actual cost to the city for such connection, computed at the current rates for labor, machinery, materials and equipment as of the time the connection is made. The city may demand a deposit in cash of the estimated cost before work begins on the connection. Any cost in excess of the deposit shall be paid by the customer, promptly on completion of the connection. Applications for such connection and service shall be made to the governing body which may approve or reject such application at its discretion. Such connection fee shall be in addition to any user charge the city may establish from time to time. (Code 2001)

15-304. **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 2001)

15-305. **COSTS.** All cost and expense incidental to the installation and connection and/or repair or replacement of the existing customer service line from the building sewer line to the existing sewer main shall be paid by the owner. The owner shall indemnify the city from all loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. (Ord. 987; Code 2001)

15-306. **SEWER CONNECTION**. The connection of the building sewer into the public sewer shall be made at the "Y" branch if such branch is available, the connection shall be made in the manner approved by the utility superintendent and at a location designed by the superintendent. (Code 2001)

15-307. **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 2001)

15-308. (1**) SAME; SPECIFICATIONS**. The building sewer shall be constructed of cast iron pipe, ASTM specifications A74-42, or approved equal; 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 pipe with approved joints. No building sewer shall be installed within three feet of existing gas line. 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 2001)

15-308- (2) **SAME.** The size and slope of the building sewer to be installed shall be subject to the approval of the city superintendent, 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 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 ¼ 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 superintendent prior to placement. (Code 2001)

15-308-(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 2001)

15-308(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 cost of pumping equipment and pumping equipment operating costs shall be those of the owner. (Code 2001)

15-308(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 2001)

15-308(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 2001)

15-308(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.

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 types 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 2001)

15-309. **SEWER EXCAVATIONS; DAMAGES**. All excavations for buildings sewers shall be adequately guarded with barricades and lights according to OSOA guidelines so as to protect the public from hazard. Street, 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 2001)

15-310. **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 given notice, the city may cause such building to be connected with the sewer system as authorized by K.S.A. 12-631.

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

15-311. **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 2001)

15-312. **PRIVATE SEWER SYSTEM**. Where a public sanitary sewer is not available under the provisions of section 15-302 the building sewer shall be connected to a private sewage system complying with the provisions of section 15-311 to 15-316. (Code 2001)

15-313. **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. (Code 2001)

15-314. **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 2001)

15-315. **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 15-302, a direct connection shall be made to the public sewer in compliance with this section 15-302, 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 2001)

15-316. **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 2001)

15-317**. 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. 12-617e;'12:617g; Code 2001)

15-318.. **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 2001)

15-319. **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 2001)

15-320. **STANDARDS.** The size, slope, alignment, materials, excavation, placing of pipe, joining, testing and backfilling shall all conform to the requirements of the building and plumbing codes or other applications rules and regulations of the city. (Code 2001)

15-321. **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 2001)

15-322. **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 2001)

15-323. **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 2001)

15-324. **SAME; EXCEPTION.** Discharges from air conditioning units in excess of one ton per hour or one horsepower may be permitted into a building sewer upon approval of the utility superintendent where there is a finding that such cooling water cannot be recirculated and that such waste water does not overload the capacity of the sewer or interfere with the effective operation of the sewage disposal works of the city. (Code 2001)

15-325. **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;

(f) Noxious or malodorous gas or substance capable of creating a public nuisance. (Code 2001)

15-326. **DISCHARGES OF TOXIC POLLUTANTS.** Any user which discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge from the City of Alta Vista treatment works, or any user which discharges any substance which singly or by interaction with other substances causes identifiable increases in the cost of operation, maintenance, or replacement of the treatment works, shall pay for such increased costs. The charge to each user will be as determined by the responsible plant operating personnel and approved by the governing body. (Code 2001)

ARTICLE 4. SOLID WASTE

15-401. **DEFINITIONS.** For the purpose of this article, the following terms, phrases, words and their derivatives shall have the meaning given herein. When not consistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in singular number, include the plural number. The word shall is always mandatory and not merely directive.

(a) **Residential Solid Waste.** Refuse, resulting from the normal household activities.

(b) **Food Wastes**. Animal, vegetable or mineral matter derived from the preparation of packaging of foodstuffs.

(c) **Residence.** A dwelling unit such as a home, mobile homes, multi-family dwellings, not including hotels or motels. Each unit of a multi-family dwelling should be considered a separate dwelling unit for the purpose of billing.

(d) **Commercial Establishment.** Mercantile, industrial, business assembly, public, institutional and all other establishments commonly designated as such or as hereafter be designated as such, or commonly considered non-residential,

(e) **City.** Area within the corporate limits of Alta Vista, Wabaunsee County, Kansas.

(f) **County.** Wabaunsee County, Kansas, or any other county with whom the city may contract for disposal services.

(g) **Contractor.** A person with whom the city has contracted to collect and dispose of refuse.

(h) **Person.** Any person, firm partnership, association, corporation, company or organization of any kind. (Code 2001)

15-402. **COLLECTION SERVICE.** All residential solid waste accumulated in the city shall be collected, conveyed and disposed of by the contractor authorized by the city, either directly, or through collateral contract, to provide the services.

It shall be unlawful for any person to collect or haul over the city streets any residential solid waste, unless such person shall have a contract with the city, or other provider of such service with whom the city has contracted, provided that this section shall not apply to departments of the city. (Code 2001)

15-403. **CONTRACTS.** The governing body shall have the right to enter into a contract with any responsible person or other municipality, city or county, providing the contract shall provide for collection and disposal of all residential solid waste within the city under the terms specified in this article. (Code 2001)

15-404. **OBLIGATIONS OF OCCUPANTS.** Every owner or occupant of a dwelling or commercial establishment shall keep his or her premises in a clean and sanitary condition and free from any accumulation of refuse, and each owner or occupant of any such premises shall dispose of all refuse in a clean and sanitary manner by placing such in an approved storage container at times and places hereinafter described. (Code 2001)

15-405. **CLEANLINESS OF STREETS, ALLEYS AND PUBLIC PLACES.** It shall be unlawful for any person to throw, place, deposit or allow to accumulate, leave or cause to be thrown, placed, deposited, or left upon any sidewalk, gutter, street, alley, thoroughfare, park, other public grounds, or any city-owned property, any garbage, trash, cast-off machinery, abandoned automobile bodies, tires, junk, filth, dirt, or litter of any kind except by depositing the same in containers provided specifically for such purposes. (Code 2001)

15-406. **CONSTRUCTION AREAS AND SPECIAL CONDITIONS.**

(a) **Construction Areas**. Nothing in this article shall prevent any person under a written permit from the city from encumbering the streets, or alleys with building materials or earth as may be necessary for the purpose of construction, erection, adding to, remodeling, or repairing any building or structure or resulting from demolition operations; provided, however, that in the event of such encumbering of the streets or alleys, the contractor, owner, or occupant shall remove any and all materials remaining within 10 days from the completion of the work, and shall leave the street or alley in the same condition that they were in prior to such use thereof.

(b) **Construction and Demolition Operations**. No provision of this article shall be construed as prohibiting construction contactors, tree surgeons, roofers, and other private contractors, whose operations result in the accumulations of refuse, from hauling and disposing of accumulations of trash and rubbish resulting from their own operations, provided they shall at all times comply with the regulations and provisions of this article.

(c) **Unusual Situation.** In situations which are not contemplated or considered by the terms and conditions of this article, the city shall have the power and the authority to grant special rights and privileges on a temporary basis for the collection, hauling and disposal of trash and garbage where such special privileges are required in order to maintain the health and sanitation of the city and it inhabitants or such right and privilege is required to avoid the creation of a public nuisance. (Code 2001)

15-407. **METHOD OF DISPOSAL**. The contractor shall collect all residential household solid waste in the city, pursuant to his or her contact, and dispose thereof by a sanitary transfer station, or by other approved method at an approved place provided by the contractor. (Code 2001)

15-408. **OWNERSHIP OF HOUSEHOLD SOLID WASTE**. Ownership of household solid waste, when placed in the containers by the occupant or owners of premises upon which household solid waste accumulates, shall be vested in the city, and shall thereafter be subject to the exclusive control of the city, its employees or contractor. (Code 2001)

15-409. **BURNING.**

(a)Fires on Public Property. It shall be unlawful for any person to kindle or maintain any bonfire or any rubbish fire or authorize any such fire to be kindled or maintained on or in any public sidewalk, street, alley, road or other public ground, except in authorized fireplaces in park locations, unless permission from the fire department shall have first been obtained.

(b) **Fires on Private Property**. No person shall kindle or maintain any bonfire rubbish fire or trash fire nor permit any such fire to be kindled or maintained on any private property within the established fire limits of the city except in an incinerator properly and safely constructed within a structure and approved by the fire department of the city.

No person shall kindle or maintain any bonfire, rubbish fire or trash fire nor permit any such fire to be kindled or maintained on any private property within the established city limits with the exception of approved fire pits or approved barbeque grills unless permission from the fire department shall have first been obtained. (Ord. 1304, 2007)

15-410. **BURYING AND BURNING GARBAGE**. It shall be unlawful for any person to bury any garbage as herein defined on public or private property without first having obtained a permit form the city.

No garbage or other materials described herein as garbage shall be burned at any time except in an incinerator or other appliance constructed specifically for such purposes and approved by the fire department, and equipped with a flue, chimney, or smokestack, which will carry the smoke and odors therefore above surrounding rooftops. (Code 2001)

15-411. **STORAGE OF RESIDENTAL HOUSEHOLD WASTE**. Residential food waste and household waste may be placed in the same storage container, as herein provided. (Code 2001)

15-412. **LARGE VOLUME ITEMS.** Only items such as leaves, tree limbs, grass clippings, not suitable to be placed in the containers shall be taken to the approved city burn site. (Code 2001)

15-413. **STORAGE CONTAINERS.** It shall be the duty of every person in possession, charge or control of any residence from which residential household solid waste accumulates in the city to provide or cause to be kept or provide suitable containers or enclosures shall be wind proof, water tight, fitted cover or lid, shall be of sufficient size to hold accumulations of waste but shall not exceed 32 gallon capacity and shall be kept closed at all times except when dumping in or when taking out. Residential Household solid waste may also be placed for removal in plastic bags, secured tightly at the top with approved fastener, provided the type of material placed therein is of a type that will not damage the bag and cause leakage and litter. (Code 2001)

15-414. **LOCATION OF STORAGE CONTAINERS**. Containers for the storage of refuse shall be placed and kept by the occupants of premises in the following locations:

(a) All dwellings shall place the containers at suitable locations as herein after designated.

(b) The containers shall be kept at the rear of the premises but placed on the street parking in front of the premises (or at the side on corner lots if requested by the contractor) on collection days. After the containers are emptied by the contractor they shall be returned by the occupant of the premises to the rear of the premises within 24 hours. Under unusual circumstances the city may designate the place where containers are kept.

(c) All containers or enclosures shall be maintained in a clean and sanitary manner by the person or person in possession of the premises which the container or containers service. (Code 2001)

15-415. **TIME OF COLLECTION.** The contractor shall collect and remove residential household waste from the residential districts once a week. (Code 2001)

15-416. **ADDITIONAL RULES**. Additional rules and regulations inconsistent with the terms and provisions of this article may be promulgated and enforced by the governing body of the city, and enforcement may be delegated to the city superintendent.
(Code 2001)

15-417. **PENALTIES.** Any person who shall violate any of the provisions of this article shall, upon conviction, be punished by a fine of not less than $10 nor more the $100, and each day of failure to comply with such provisions of this article shall constitute a separate offense. (Code 2001)

ARTICLE 5. WATER CONSERVATION

15-501. **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 an emergency is declared. (Code 2001)

15-502. **DEFINITIONS.**

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

(b) **Customer** shall mean the customer of record using water for any purpose from the city's water distribution system and for which either a regular charge is made or, in the case of coin sales, a cash charge is made at the site of delivery.

(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 water uses are established:

Class 1.-Outdoor water usage, 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. - **Commercial or Industrial usage**, including agricultural, purpose; 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 and 2.

Class 4. -Sustaining Usage: necessary only to sustain human life and the lives of domestic pets and maintain standards of hygiene and sanitation.

15-503. **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 emergency exists and that it will encourage voluntary water conservation or impose mandatory restrictions on water use during the period of the emergency. Such an emergency shall be deemed to continue until it is declared by resolution of the governing body to have ended. The resolutions declaring the existence and end of a water supply emergency shall be effective upon their publication in the official city newspaper. (Code 2001)

15-504. **VOLUNTARY CONSERVATION MEASURES**. Upon the declaration of a water supply emergency as provided in section 15-503, the mayor is authorized to call on all water consumers to employ voluntary water conservation measures to limit or eliminate non-essential water uses including, but not limited to, limitations on the following uses:

(a) Sprinkling of water on lawns, shrubs or trees (Including golf courses).

(b) Washing of automobiles.

(c) Use of water in swimming pools, fountains and evaporative air conditioning systems.

(d) Waste of water. (Code 2001)

15-505. **MANDATORY CONSERVATION MEASURES.** Upon the declaration of a water supply emergency as provided in section 15-503, the mayor is also authorized to implement certain mandatory water conservation measures, including, but not limited to, the following:

(a) Suspension of new connections to the city's water distribution system, except connections of fire hydrants and those made pursuant to agreements entered into by the city prior to the effective date of the declaration of the emergency.

(b) Restrictions on the uses of water in one or more classes of water use, wholly or in part;

(c) Restrictions on the sales of water at coin-operated facilities or sites;

(d) The imposition of water rationing based on any reasonable formula including, but not limited to, the percentage of normal use and per capita or per consumer restrictions;

(e) Complete or partial bans on the waste of water; and

(f) Any combination of the foregoing measures. (Code 2001)

15-506. **EMERGENCY WATER RATES.** Upon the declaration of a water supply emergency as provided in section 15-503, 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 increased usage per unit of the use (Increasing block rates);

(b) Uniform charges for water usage per unit of use (uniform unit rate); or

(c) Extra charges in excess of a specified level of water use (Excess demand surcharge). (Code 2001)

15-507. **REGULATIONS.** During the effective period of any water supply emergency as provided for in section 15-503, the mayor is empowered to promulgate such regulations as may be necessary to carry out the provisions of this article, any regulations shall be subject to the approval of the governing body at its next regular or special meeting. (Code 2001)

15-508. **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 section of 15-505 0r 15-507, 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 specific 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 to be terminated.

(b) A fee of $50 shall be paid for the reconnection of any water service terminated pursuant to subsection (a). In the event of subsequent violations, the reconnection fee shall be $200 for the second violation and $300 for any additional violations.

(c) Violation of this article shall be a municipal offense and may be prosecuted in municipal court. Any person so charged and found guilty in municipal court of violating the provisions of this article shall be guilty of a municipal offense. Each day's violation shall constitute a separate offense. The penalty for an initial violation shall be a mandatory fine of $100. In addition, such customer may be required by the court to serve a definite term of confinement in the county jail which shall be fixed by the court and which shall not exceed 30 days. The penalty for a second or subsequent conviction shall be a mandatory fine of $200. In addition, such customer shall serve a definite term of confinement in the county jail which shall be fixed by the court and which shall not exceed 30 days. (Code 2001)

15-509 **EMERGENCY TERMINATION.** Nothing in this article shall limit the ability of any property 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. (Code 2001)

CHAPTER XVI. ZONING AND PLANNING

Article 1. City Planning Commission/
Board of Zoning Appeals
Article 2. Zoning Regulations

ARTICLE 1. CITY PLANNING COMMISSION/ BOARD OF ZONING APPEALS

16-101. **COMMISSION RE-ESTABLISHMENT**. There is hereby re-established the Wabaunsee County Planning Commission. The planning commission was originally created by Ordinance No 624. Which was passed and approved on July 7, 1969. (Code 2001)

ARTICLE 2. ZONING REGULATIONS

16-102. **ZONING REGULATIONS AMENDMENTS**.

(a) The zoning regulations of Wabaunsee County, Kansas (The Regulations) approved by the Wabaunsee planning commission, dated April 1995 (A Model Code) prepared and published in book form, as they apply to and within the City of Alta Vista, Kansas, are hereby amended as follows:

1. The following Articles of Regulations are hereby deleted: Article 2 ("AG"); Article 3 ("RP"); Article 4 ("SR"); Article 6 ("V1"); Article 21 ("AO"); Article 23 ("FRD"); Article 32 (Manufactured Home Park Regulations); Article 33 (Manufactured Home Subdivision Regulations); and Article 37 (Special Events).
2. Article 7, Section 7-107 (6) is amended to provide a minimum lot area of 7500 square feet.
3. Article 8, Section 8-107 (5) is amended to provide a minimum of 70 feet.
4. Article 9, Section 9-107 (5) is amended to provide a minimum lot width of 50 feet and Section 9-107 (6) amended to provide a minimum lot area of 5000 square feet.
5. Article 17, Section 17-102 (2) is amended to read; Residential uses, provided the residential use area is an integral part of the structure used as a commercial use structure and is actually occupied by the owner or operator of the commercial business operated in the structure.
6. Article 26 is amended to apply only to one and two family dwellings and apartment building,

(b) The zoning regulations, as above amended, are hereby adopted by reference pursuant to K.S. A. 12-3009 et seq. and 12-3302. (Code 2001)

APPENDIX A- CHARTER ORDINANCES

Note: The charter ordinances included herein are for information only. Each of them contains the substance as adopted by the governing body by enacting clauses. Publication clauses and signatures have been omitted to conserve space. Complete copies of each charter ordinance as adopted are on file in the office of the city clerk and with the Kansas secretary of state. Date of passage by the governing body of each charter ordinance is shown in parentheses at the end of the text.

CHARTER ORDINANCE NO. 1

A CHARTER ORDINANCE EXEMPTING THE CITY OF ALTA VISTA, KANSAS FROM K.S.A. 12-1640, RELATING TO DEMAND DEPOSITS OF PUBLIC MONEYS AND CERTAIN DUTIES OF THE CITY TREAURER.

Section 1. **Exempting from Statute.** The City of Alta Vista, Kansas, by the power vested in it by Article 12, Section 5, of the constitution of the State of Kansas, hereby elects to make inapplicable to it and exempts itself from K.S.A. 12-1640, which applies to said city but not uniformly to all cities. (11-20-68)

CHARTER ORDINANCE NO. 3

A CHARTER ORDINANCE EXEMPTING THE CITY OF ALTA VISTA, KANSAS, FROM K.S.A. 79-5001 TO 79-5017, INCLUSIVE, AND ANY AMENDMENTS THERETO.

Section 1. The City of Alta Vista, Kansas, by the power vested in it by Article12, Section 5 of the constitution of the State of Kansas, hereby elects to exempt itself from and make inapplicable to K.S.A. 79-5001 to 79-5017, inclusive, and any amendments thereto, which is an enactment of the legislature applicable to this city but which is not applicable uniformly to all cities.

Section 2. The provision of K.S.A. 79-5001 to 79-5017, inclusive, and any amendments thereto, shall not apply to any taxes levied by the City of Alta Vista. (9-9-85)

CHARTER ORDINANCE NO. 89-1

A CHARTER ORDINANCE EXEMPTING THE CITY OF ALTA VISTA, KANSAS, FROM THE PROVISIONS OF K.S.A. 12-4112 AS AMENDED; PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS FOR MUNICIPAL; COURT PROCEDURE, AND THE IMPOSITION OF COURT COSTS.

Section 1. The City of Alta Vista, Kansas, by the power vested in it by Article 12, Section 5 of the constitution of the State of Kansas hereby elects to exempt itself from and make inapplicable to it the provision of K.S.A. 12-4112, as amended, which provisions apply to said city, but which do not apply uniformly to all cities, and to provide substitute and additional provisions on the same subject.

Section 2. In lieu of K.S.A. 12-4112, the governing body of the City of Alta Vista, Kansas herby adopts the following provisions:

(a) In each Municipal Court case where the accused person pleads guilty or nolo contendere, or is found guilty upon trial, such person shall be assessed costs for the administration of justice in the Municipal Court of the City of Alta Vista, Kansas, and such costs shall be determined by ordinance, in addition thereto, the Municipal Judge of the City of Alta Vista, Kansas, is authorized and empowered to assess witness fees and mileage as permitted by applicable law now in existence or herein enacted. (12-11-89)

CHARTER ORDINANCE NO 01-04

A CHARTER ORDINANCE EXEMPTING THE CITY OF ALTA VISTA, KANSAS FROM THE PROVISIONS OF K.S.A. 1990 SUPP. 79-5028, AS AMENDED BY CHAPTER 107 OF THE 2004 SESSION LAWS OF KANSAS, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT.

Section 1. The Governing Body of the City Alta Vista, Kansas, by the power vested in it by Article 12, Section 5 of the constitution of the State of Kansas, hereby elects to and does exempt itself and make inapplicable to it the 2004 Session Laws of Kansas, Chapter 107, which applies to the City but which enactment does not apply uniformly to all cities. (9-13-2004)

CHARTER ORDINANCE NO 01-2008

A CHARTER ORDINANCE EXEMPTING THE CITY OF ALTA VISTA, KANSAS, FROM K.S.A. 15-809, PROVIDING SUBSTITUTE AND ADDITIONAL PROVISION OF THE SAME SUBJECT, RELATING TO THE SALE OF THE CITY OF ALTA VISTA'S NATURAL GAS DISTRIBUTION AND WATERWORKS PLANT AND WATER DISTRIBUTION SYSTEM.

Section 1. The City of Alta Vista, Kansas, by the power vested in it by Article 12, Section 5, of the constitution of the State of Kansas, hereby elects to exempt itself from and make inapplicable to it K.S.A. 15-809 and provide substitute and additional provisions as hereinafter set forth in this ordinance. Such statutory section is applicable to this city but is not applicable uniformly to all cities.

Section 2. The City of Alta Vista, which owns a waterworks plant and water distribution system and gas distribution system may sell the same except that the sale shall not be made until the proposition of whether to sell has been submitted to a vote of the qualified electors of the city. If a majority of the votes cast at such election are in favor of the sale, the governing body may dispose of the water plant and water distribution system or gas distribution system according to the proposition voted on at the election. The proposition submitted to the electors shall contain a statement of the proposed sale price and the name of the purchaser.

When the governing body decided to put the proposition to a vote, it shall pass an ordinance calling an election to be held within 40 days after the passage of the ordinance. The mayor shall cause a notice of the election to be published once a week for two consecutive weeks, the first publication to be not less than 21 days preceding the election.

The notice shall state the purpose of the election, giving the sale price and the name of the purchaser, the date of the election, and the place of voting. The proposed purchaser shall bear all the expenses of the election.

All sales shall be for cash and the proceeds of the sale shall be applied upon the payment of any outstanding bonds or obligations incurred in the purchase, erection or improvement of the property sold. The excess, if any, shall be paid into the general fund of the city. If the city is unable to purchase the unmatured bonds issued for the purchase, erection or improvements of the property sold, the governing body may invest the money necessary to take up such bonds at maturity in investments authorized by K.S.A. 12-1675 amendments thereto in the manner prescribed therein in any municipal bonds of this state, which shall become due prior to the due date of the bonds issued for the purchase, erection or improvement of the property sold, or in government bonds or federal land bank bonds. The purchase price and proceeding of the sale shall be filed with the state corporation commission.

Section 3. This charter ordinance 01-2008 shall be published once each week for two consecutive weeks in the official city newspaper. It shall take effect 61 days after the final publication unless a sufficient petition for a referendum is filed. If a referendum is filed it shall become effective if approved by the majority of the electors voting. (11-10-2008)

ORDINANCE NO 1006

AN ORDINANCE, GRANTING TO WESTAR ENGERY, INC., A KANSAS CORPORATION, ITS SUCCESSORS AND ASSIGNS, AN ELECTRIC FRANCHISE, PRESCRIBING THE TERMS THEREOF AND RELATING THERETO, AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT WITH OR IN CONFLICT WITH THE TERMS HEREOF.

Section 1. That in consideration of the benefits to be derived by the City of Alta Vista, Kansas, and its inhabitants, there is hereby granted to Westar Energy, Inc. a Kansas corporation, hereinafter sometimes designated as "Company" said Company being a corporation operating system for the transmission of electric current between two or more incorporated cities in the State of Kansas, into and through which it has built transmission lines, the right, privilege, and authority for a period of twenty (20) years from the effective dates of this ordinance, to occupy and use the several streets, avenues, alleys, bridges, parks, parking, and public places of said City, for the placing and maintaining of equipment and property necessary to carry on the business of selling and distributing electricity for all purposes to the City of Alta Vista, Kansas, and its inhabitants, and to do all things necessary or proper to carry on said business in the City of Alta Vista, Kansas.

Section 2. As further consideration for the granting of this franchise, and in lieu of any city occupation, license, or revenue taxes, the Company shall pay to the city during the term of this franchise five percent (5%) of its gross cash receipts from the sale of electric energy within the corporate limits of said City, such payment to be made monthly for the preceding monthly period. Any change in the rate of compensation agreed upon by the parties shall be effective for the remainder of the term. Gross cash receipts shall not include other operating revenues received by the Company, which are not related to the "sale of electric energy". Other operating revenues include, but are not limited to, delayed payment charges, connection fees, disconnection and reconnection fees, collection fees and return check charges. At the option of either the City or the Company and upon written notice given by one to the other sent at least ninety (90) days before the fifth, tenth or fifteen anniversary of this franchise.

Section 3. That company, its successors and assigns, in the construction, maintenance, and operation of its electric transmission, distribution and street lighting system, shall use all reasonable and proper precaution to avoid damage or injury to persons and property, and shall hold and save harmless the City of Alta Vista, Kansas, from any and all damage, injury and expense caused by the negligence of said Company, its successors and assigns, or its or their agents or servants.

Section 4. After the approval of this ordinance by the City, Company shall file with the City Clerk of the City of Alta Vista, Kansas, its unconditional written acceptance of this ordinance. Said ordinance shall become effective and be in force and shall be and become a binding contract between the parties hereto, their successors and assigns, from and after the expiration of 60 days from its final passage, approval and publication as required by law, and acceptance by said Company.

Section 5. That this ordinance, when accepted as above provided, shall constitute the entire agreement between the City and Company relating to this franchise and the same shall supersede and cancel any prior understandings, agreements, or representations regarding the subject matter hereof, or involved in negotiations pertaining thereto, whether oral or written.

Section 6. This franchise is granted pursuant to the provision of K.S.A. 12-2001.

Section 7 That any and all ordinances or parts of ordinances in conflict with the terms hereof are hereby repealed.

Section 8. The Company will file this ordinance with the State Corporation Commission in Kansas. Should the State Corporation Commission take any action with respect to this franchise ordinance, which would or may preclude Westar Energy, Inc., a Kansas corporation, from recovering from its customers any cost provided for hereunder, the parties hereto shall renegotiate this ordinance in accordance wit the State Corporation Commission's ruling.

Section 9. A franchise shall be assignable only in accordance with the laws of the State of Kansas, as the same may exist at the time when any assignment is made, provided, however, that the franchise may be assigned by Company without action by the City to any creditworthy entity which succeeds all or substantially all of the electric utility business of the Company. In the event of such assignment to successor, Company shall be released from all obligations which are assumed in writing by such successor and the assignee shall have executed an assumption of the franchise being assigned.

ORDINANCE NO 944

AN ORDINANCE GRANTING UNITED TELEPHONE COMPANY OF IOWA D/B/A UNITED TELEPHONE COMPANY OF EASTERN KANSAS, A FRANCHISE TO USE THE STREETS, AVENUES, BOULEVARDS, ALLEYS, AND OTHER PUBLIC PLACES IN THE CITY OF ALTA VISTA, STATE OF KANSAS, TO CONTINUE TO CONDUCT THE BUSINESS OF CONSTRUCTING, INSTALLING, MAINTAINING, MANAGING, AND OPERATING A TELEPHONE SYSTEM WITH ALL NECESSARY POLES, WIRES, CABLES, FIXTURES, CONDUIT AND APPARATUS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ALTA VISTA, KANSAS AS FOLLOWS:

United Telephone Company of Iowa d/a/b United Telephone Company of Eastern, Kansas, grantee, a corporation organized under the laws of the State of Kansas, and its successors and assigns, are herby granted the right, in operating a telephone system to construct, install, maintain, and repair all the necessary poles, wires, cables, pole and wire fixtures, telephone plant, and telephone apparatus of whatsoever nature for the purpose of conducting such business; to erect, maintain, and repair such telephone poles and string the same with wire and cable along, upon, across or below the streets, avenues, boulevards, alleys, and other public places of the City of Alta Vista, Grantor; and to construct, lay, maintain, and repair such cable as grantee, its successors and assigns, may require, under those streets, avenues, boulevards, alleys, and other public places for the purpose of such business under the following terms and restrictions.

Section 1. This grant shall be effective in accordance with Section 12, below and shall continue for a term of five years from its effective date, and for successive terms of like duration unless written notice is given by either the Grantor or the Grantee to the other 120 days or more prior to the expiration of the initial term or any successive term of its intention to terminate the same at the expiration of the current term.

Section 2. Grantee, its successors and assigns, shall conduct telephone business in such a manner as shall be to the benefit of the City and its inhabits, rendering good telephone service at reasonable rates as authorized by the Kansas Corporation Commission or any other state or local government agency charges by law with the power to regulate telephone public utilities.

Section 3. All pole and overhead wires or cables erected in accordance with this ordinance shall be placed, whether on streets, avenues, boulevards, alleys, or other public places, so as not to interfere with ordinary travel on such streets, avenues, boulevards, alleys or other public places. All poles erected under this ordinance shall be located so as not to injure any drains, sewer, catch basins, or other like public improvements and, if such be injured, grantee shall repair any damages caused to the satisfaction of the Mayor of the City and, in default thereof, the City may repair such damage and charge the cost to Grantee.

Section 4. The poles of Grantee, its successors and assigns, shall be placed and erected in such a manner so as not to interfere unreasonable with the orderly conduct of the business and rights of any other public service corporation having a right or franchise to operate its business in the City.

Section 5. Grantee shall remove, raise, or adjust its aerial plant, after 48 hours notice by a properly authorized city official, for the purpose of permitting the moving of houses or other structures along the street of the city. The person or persons for whose benefit such telephone plant is moved, raised, or adjusted, however, shall first secure proper permission from the city for the movement and agree to pay grantee for its related costs and damages. If desired, and advanced deposit from the mover may be required by grantee.

Section 6. Permission is hereby granted to grantee to trim trees upon and overhanging streets, alleys, sidewalks, and public places of the City so as to prevent the branches of such trees from coming into contact with Grantee's wires and cables. All such trimming will be done under the supervision and direction of any City official to whom such duties have been or may be delegated.

Section 7. In consideration for rights and privileges herein granted, Grantee shall pay the City, $100. Such payment shall be made on or before the 1st day of March each year during the term of this ordinance. The City agrees to accept those sums as full and fair compensation, which sums shall be in lieu of any general or special license tax, occupation tax, or any other such tax for the term of this ordinance.

Section 8. Nothing herein shall affect any prior or existing rights of Grantee to maintain a telephone company within the City.

Section 9. The franchise and all rights hereunder may be assigned by the Grantee, as well as all succeeding Grantees, at their option , and the successors and/or assigns shall succeed to all the rights, duties, and liabilities of the Grantee hereunder.

Section 10. The recovery of the charges from Grantee's customers is subject to the jurisdiction of the regulatory and state authorities and not the City. The obligation of Grantee to pay compensation under this ordinance is contractual; the City makes no requirements as to the method Grantee uses to recover the payments.

Section 11. All ordinances and agreements or parts of ordinance and agreement in conflict with this ordinance are hereby repealed.

Section 12. This ordinance shall be effective at the expiration of 65 days from the date of its final passage.

Section 13. If this ordinance expires either prior to the effective date of passed subsequent ordinance granting Grantee a franchise, or while the City and Grantee are engaged in good faith negotiations intended to result in the passage of such subsequent ordinance the terms of this ordinance shall apply until the effective date of the subsequent ordinance.

Section 14. If any portion of this ordinance for any reason is held to be invalid, such portion shall be considered severed from the remainder of this ordinance and the remainder shall be unaffected and continue in full force and effect.

ORDINANCE 1040

AN ORDINANCE, GRANITNG TO KANSAS GAS SERVICE, A DIVISON OF ONEOK. INC. ITS SUCCESSORS AND ASSIGNS, A NATURAL GAS FRANCHISE, PRESCRIBING THE TERMS THEREOF AND RELATING THERETO, AND REPEALING ALL ORDIANCES OR PARTS OF ORDINANCES INCONSISTENT WITH OR IN CONFLICT WITH THE TERMS HEREOF.

Section 1. That in consideration of the benefits to be derived by the City of Alta Vista, Kansas, ("City"), and its inhabitants, there is hereby granted to Kansas Gas Service, a Division of ONEOK, Inc. ("Company"), said Company operating a system for the transmission and distribution of natural gas in the State of Kansas, the right, privilege, and authority for a period of twenty (20) years from the effective date of this ordinance, to occupy and use the several streets, avenues, alleys, bridges, parks, parking places of said City, for the placing and maintaining of equipment and property necessary to carry on the business of selling and distributing natural gas for all purposes to the City, and its inhabitants, and through said city and beyond the limits thereof; to obtain said natural gas from any source available; and to do all things necessary or proper to carry on said business.

Section 2. As further consideration for the granting of this franchise, and in lieu of any city occupation, license, or permit fees, or revenue taxes, the Company shall pay to the City during the term of this franchise five percent (5%) of the gross cash receipts from the sale of natural gas and transportation services to all consumers within the corporate limits of the City, such payments to be made monthly for the preceding monthly period. Gross cash receipts shall not include revenues received by the Company such as but not limited to connection fees, disconnection and reconnection fees, temporary service charges, delayed or late payment charges, collection fees, and returned check charges as such items are used in tariffs or in the natural gas industry.

Section 3. The payments and compensation herein provided shall be in lieu of all other licenses, taxes, charges and fees, except that the usual general property taxes and special ad valorem property assessments, sales, and excise taxes or charges made for privileges which are not connected with the natural gas business, will be imposed on the Company and are not covered by the payments herein. From and after the date hereof, however, the permit fees required of the Company by any ordinance presently in effect or hereafter adopted for a permit to excavate in or adjacent to any street, alley, or other public place shall be deemed a part of the compensation paid in Section 2 and shall not be separately assessed or collected by the City; in no event, however, shall this provision be interpreted to waive the requirement of notice to the City and the procedural requirements of such ordinance.

Section 4. The use of Right of Way under this franchise by the Company shall be subject to all rules, regulations and policies now or hereafter adopted or promulgated by the City in the reasonable exercise of its police power. In addition, the Company shall be subject to all rules, regulations and policies now or hereafter adopted or promulgated by the City relating to permits, sidewalk and pavement cuts, utility location, construction coordination, and other requirements on the use of the Right of Way; provided however, that nothing contained herein shall constitute a waiver of or be construed as waiving the right of the Company to oppose, challenge, seek judicial review of, in such manner as in now or may hereafter be provided by law, any such rules, regulation or policy proposed, adopted, or promulgated by the City and, further provided other than the items enumerated in Section 3 herein, that such rules, regulations or policies shall not require the payment of additional fees or additional costs for the use of the Right of Way. In any event, the Company is granted an offset for such fees and costs against the franchise fees required to be paid hereunder.

Section 5. All mains, services, and pipe which shall be laid or installed under this grant shall be so located and laid as not to obstruct or interfere with any water pipes, drains, sewers, or other structures already installed. Company shall provide, prior to commencing work, information to the City concerning work to be performed in the streets, avenues, bridges, parks, parking areas, and public places of the City, as the City may from time to time require for purposes of record keeping. The City may require that the information be provided on its standard permit form, but without requiring approval, consent, or fees. In the event of an emergency, Company shall have the right to commence work without having first providing such form(s).

Section 6. Company shall, in doing the work in connection with its said gas mains, pipes, and services, avoid, so far as may be practicable, interfering with the use of any street, alley, avenue, or other public thoroughfare. It shall, without expense to the City, and in a manner satisfactory to the duly authorized representatives of the City, replace such paving or surface in substantially as good condition as before said work commenced.

Section 7. It is recognized that the natural gas to be delivered hereunder is to be supplied from a pipeline system transporting natural gas from distant sources of supply; and the Company, by its acceptance of this franchise as hereinafter provided, does obligate itself to furnish natural gas in such quantity and for such length of time, limited by the terms hereof, as the said sources and said pipelines are reasonably capable of supplying.

Section 8. Company, its successors and assigns, in the construction, maintenance, and operation of its natural gas system, shall use all reasonable and proper precaution to avoid damage or injury to persons and property, and shall hold and save harmless the City from any and all damage, injury, and expense caused by the negligence of said Company, its successors and assigns, or its or their agents or servants.

Section 9. After the approval of this Ordinance by the City, Company shall file with the County Clerk of the City its written acceptance of this Ordinance. Said Ordinance shall become effective and be in force and shall be and become a binding contract between the parties hereto, their successors and assigns, as of the Closing Date as such term is defined pursuant to the Asset Purchase Agreement between the City and Company dated as of February 9, 2009 (the "Asset Purchase Agreement"). In the event that Closing does not occur, then this Franchise shall be void ab initio. Company shall be responsible for publication in the official City newspaper.

Section 10. This Ordinance, when accepted as above provided, shall constitute the entire agreement between the City and the Company relating to this franchise and the same shall supercede and cancel any prior understandings, agreements, or representations regarding the subject matter hereof, or involved in negotiations pertaining thereto, whether oral or written, shall be binding upon the parties, including their successors and assigns, and shall not be amended or further obligations imposed without mutual consent of the parties hereto.

Section 11. The franchise is granted pursuant to the provision of K.S.A. 12-2001 and amendments thereto.

Section 12. Should the Kansas Corporation Commission take any action with respect to this franchise ordinance and any amendment thereto which precludes Company from recovering from its customers any cost or fees provided for hereunder, the parties hereto shall renegotiate this ordinance in accordance with the Commission's ruling.

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